

THE  
UNITED PROVINCES CODE.

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VOLUME II.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE  
UNITED PROVINCES CODE,

IN THREE VOLUMES :

CONTAINING

THE REGULATIONS AND ACTS IN FORCE IN THE UNITED  
PROVINCES OF AGRA AND OUDH;

WITH

A CHRONOLOGICAL TABLE, AN APPENDIX AND AN INDEX.

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FIFTH EDITION.

VOLUME II :

Acts of the Local Council up to the end of 1916.

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CALCUTTA  
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UNITED PROVINCES CODE.  
VOLUME II.

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PART III.

ACTS OF THE LIEUTENANT-GOVERNOR OF THE  
UNITED PROVINCES OF AGRA AND OUDH IN  
COUNCIL.

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THE UNITED PROVINCES VILLAGE SANITATION  
ACT, 1892.

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- 

## PART III.

20. Power of Local Government to make rules.
21. Recovery of arrears due to Local Government.

UNITED PROVINCES ACT No. II OF 1892.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[27th November, 1892 · 19th January, 1893.]

An Act to make better provision for sanitation in villages in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for sanitation in villages in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

1. (1) This Act may be called the <sup>2</sup>North-Western Provinces and Oudh Village Sanitation Act, 1892. Title, extent and commencement.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh;

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) “village” means an inhabited site, but does not include a municipality <sup>3</sup>\* cantonment <sup>3</sup>[or notified area as defined in section 193 of the <sup>4</sup>United Provinces Municipalities Act, 1900];

(2) “village lands” means the lands included in the revenue mauza or manzas in which the village is situated;

(3) “well” means a well the water of which is habitually used for drinking purposes by all or some of the inhabitants of a village;

(4) “Collector” means any Revenue-officer in independent charge of a district, and any officer appointed by the <sup>5</sup>[Local Government] to discharge throughout any specified local area the functions of a Collector under this Act:

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1892, Pt. V, dated 12th March, p. 3; for Report of the Select Committee, see *ibid.*, Pt. V, dated 29th October, 1892, p. 1; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 13 and 354.

<sup>2</sup> Read now “United Provinces Village Sanitation Act, 1892,” see the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), s. 23 (2), *infra*.

<sup>3</sup> The word “or” was omitted and the words in brackets added by s. 2 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>4</sup> See now s. 337 of the United Provinces Municipalities Act, 1916 (U. P. Act 2 of 1916), *infra*.

<sup>5</sup> The words “Local Government” were substituted for the word “Government” by s. 8 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

- (5) "Magistrate" means the District Magistrate and any Magistrate empowered by <sup>1</sup>[Local Government], by name or virtue of his office, to exercise the powers of a Magistrate under this Act:
- (6) "Sanitary Commissioner" includes a Deputy Sanitary Commissioner:
- (7) "proprietors of village-lands" means the proprietors of the mahál or maháls in which the village-lands are situated; and in sub-settled maháls means the persons with whom sub-settlement has been made.

Application of certain sections of the Act to notified villages.

3. Part I shall not apply to any village until, by order notified in the Gazette, the <sup>1</sup>[Local Government] shall have declared it <sup>2</sup>applicable to the district in which the village is situated.

#### PART I.

Power to cause local inquiry to be made into the sufficiency and purity of the water supply.

4. In any village \* \* \*<sup>3</sup> which contains not less than 2,000 inhabitants, <sup>4</sup>[or in such other villages as the Local Government may from time to time by general or special order direct], the Collector may cause a local inquiry to be made, through the agency prescribed by rules made under section 20, into the sufficiency and purity of the water-supply <sup>4</sup>[and general sanitary condition] of the village, with the view of ascertaining any or all of the following matters:—

- (1) whether the water of any well is contaminated from surface-drainage, or from any other cause against which effective measures of protection can be taken;
- (2) whether the water of any well is dangerous to health, and its impurity is due to causes against which effective measures of protection cannot be taken;
- (3) whether the construction of additional wells is necessary for the health of the inhabitants of the village.

<sup>1</sup> The words "Local Government" were substituted for the word "Government" by s. 8 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>2</sup> For notification declaring Part I applicable to certain districts, see U. P. Local Rules and Orders.

<sup>3</sup> The words and figures "in which the provisions of Act XX of 1856 are in force, or" were repealed by s. 3 (1) of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>4</sup> These words were inserted by s. 3, *ibid*. For orders under s. 4, see U. P. Local Rules and Orders.

<sup>1</sup>[ (4) whether it is necessary for the health of the inhabitants of the village that provision be made in respect of the matters described in section 14].

5. The Collector shall take into consideration the result of the above inquiry, and may—

Action that may be taken by the Collector on considering the result of the local inquiry.

(1) by the publication of notice in the manner prescribed, direct that any well be cleaned, improved, repaired, or otherwise protected from contamination, by, or at the expense of, those of the inhabitants of the village who are found on local inquiry to use the well;

(2) after recording his reasons, condemn any well referred to in section 4 (2);

(3) by the publication or service of notice in the manner prescribed, direct that one or more additional wells be constructed by the proprietors of the village-lands;

<sup>2</sup>[ (4) by the publication or service of notice in the manner prescribed, declare any or all of the rules framed by the Local Government under section 14 applicable to the village.]

6. When a well has been condemned in accordance with the provisions of section 5 (2), the Collector may either cause it to be filled up and closed, or if it be a masonry well and is used for irrigation, allow it to remain open on the condition that the inhabitants of the village abstain from using it for drinking purposes.

Power of Collector to close or keep open a condemned well.

7. When the Collector allows a condemned well to remain open under section 6, he shall cause the contents of his order to be published within the limits of the village, and shall direct—

Publication of order prohibiting the use of a condemned well for drinking purposes.

(1) the inhabitants of the village to abstain from using the water of such well for drinking purposes; and

(2) the proprietors of the village-lands to affix and maintain upon or adjacent to such well a conspicuous notice or mark indicating that the use of the water for drinking purposes is prohibited.

8. If at any time it be proved to the satisfaction of the Collector that the prohibition issued under the preceding section respecting the use of a well for drinking purposes is disregarded, he may forthwith cause such well to be filled up and closed.

Power of Collector to close a condemned well, if the prohibition issued under section 7 is disregarded.

<sup>1</sup> Sub-clause (4) was added to s. 4 by s. 3 (3) of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>2</sup> Sub-clause (4) was added to s. 5 by s. 4 *ibid*.

Contents of  
notice issued  
under section  
5.

9. Every notice issued under section 5 shall specify the nature and extent of the work to be executed, its estimated cost, and the period within which it is to be completed :

Provided that no notice shall be issued under clause (3) of section 5 if the estimated cost of the work exceeds the limit prescribed by rules made under section 20.

Power of  
Collector to  
execute the  
work himself.

10. On the expiration of the period prescribed in any notice issued under section 5, the Collector shall ascertain whether the direction conveyed by the notice has been satisfactorily complied with; and may in default of such compliance proceed to execute the work himself :

Provided that he may on sufficient cause being shown extend the period specified in the notice, or modify or rescind the direction conveyed by it.

Application  
to Collector  
for a loan of  
public  
moneys.

11. Whenever notice has been issued under section 5 directing that measures be taken with regard to any existing well, or that a new well be constructed, the persons affected by the notice, or a majority of them, may apply to the Collector for a loan of public moneys for the purpose of executing the work specified in the notice; and the Collector, on being satisfied that the applicants are competent to execute the work, may grant to them in loan a sum not exceeding the amount specified in the notice, and may direct that it be paid to such person among the applicants as they may appoint.

Preparation  
of list of  
persons from  
whom sums  
expended or  
advanced by  
Collector are  
recoverable.  
Manner of  
recovery of  
sums expend-  
ed or advanc-  
ed by Col-  
lector

12. Whenever the Collector has expended money under section 10, or has made a loan under section 11, he shall forthwith prepare a list of the persons from whom such expenditure or loan is declared to be recoverable under the provisions of the next section.

13. All sums expended by the Collector under section 10, and all loans made by him under section 11, shall be recoverable in accordance with the following provisions :—

(1) in the case of a well referred to in section 5 (1), from the persons found by the local inquiry to use the well, in proportion to their respective means and circumstances, and in accordance with any rules that may be made under section 20;

(2) in the case of a well referred to in section 5 (3) :—

<sup>1</sup>[(a) one-quarter from the district fund;]

(b) one-quarter from the proprietor or proprietors of the village-lands in proportion to their respective proprietary shares in those lands;

<sup>1</sup> Clause (a) was substituted by s. 5 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

- (c) one-half from persons, including proprietors of village-lands, owing or occupying houses, situated within the village, or, if the Collector so determine, situated in that portion of the village which will chiefly benefit from the well, with reference to their respective means and circumstances, and in accordance with any rules that may be made under section 20.

14. The <sup>1</sup>[Local Government] may, after previous publication, <sup>2</sup>[frame] <sup>3</sup>rules regulating conservancy, providing for the protection and periodical examination of the water-supply, <sup>4</sup>[prohibiting or regulating the making of pits and excavations], and defining and prohibiting public nuisances in <sup>5</sup>[or near] any village <sup>6</sup>[to which the Collector may under section 5 (4) declare such rules or any of them applicable].

Additional power of Local Government to make rules regarding conservancy.

15. (1) In making any <sup>2</sup>rule under the preceding section the <sup>1</sup>[Local Government] may direct that a breach of it shall be punishable with fine which may extend to ten rupees.

Penalty for breach of rules.

(2) All fines recovered under this section shall be applied <sup>3</sup>[for the benefit of the village] as the <sup>4</sup>[Local Government] shall from time to time direct.

## PART II.

16. Advances may be made by the Collector for the repair, improvement or construction of wells in any village, whatever be its population, provided that the applicant furnishes sufficient security for the repayment of the advance.

Advances for the repair, construction or improvement of wells

17. When the Magistrate and the Sanitary Commissioner, or the Civil Surgeon, acting in concert, have ascertained that a serious epidemic or infectious disease is present in the district, or in any part of the district, and that special preventive measures are required, they may record their reasons in writing, specifying at the same time the tract in which such preventive measures are required. The Magistrate may then, subject to the provisions of any rules made under section 20, take such measures as he may deem necessary for the following purposes in any village, which is situated in the said tract, and in which an outbreak of the disease has either taken place or is apprehended, namely:—

Power to take special measures to prevent outbreak or spread of infectious disease.

- (1) the cleansing and conservancy of the site;
- (2) the disposal of corpses by cremation or burial;

<sup>1</sup> These words were substituted for the words "Government" and "make" by ss. 6 (2) and 8, respectively, of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>2</sup> For rules see the U. P. Local Rules and Orders.

<sup>3</sup> These words were inserted by ss. 6 (1) and 7, respectively, of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

- (3) the prohibition of the use for drinking purposes, or the closing, of any source of water-supply; and
- (4) the disposal or destruction of materials likely to convey infection.

Recovery of sums expended under the preceding section.

18. Subject to the rules made under section 20, sums expended by the Magistrate under the preceding section shall be recoverable, in whole or in part, from the proprietors of village-lands, and owners and occupiers of houses in the village, with reference to their respective means and circumstances.

Compensation to be paid for destruction of materials likely to retain infection.

19. When any hut, shed, clothing, bedding, or other article which is likely to retain infection is destroyed under the provisions of section 17, clause (4), the Magistrate shall pay such compensation, if any, as he may consider reasonable, to any person sustaining substantial loss thereby; but no person shall be entitled as of right to claim compensation for any loss or damage sustained by him by reason of such destruction.

### PART III.

Power of Local Government to make rules.

20. (1) The <sup>1</sup>[Local Government] shall make <sup>2</sup>rules consistent with this Act—

- (a) prescribing the agency by which the local inquiry referred to in section 4 shall be conducted; and
- (b) fixing the limit referred to in the proviso to section 9.

(2) The <sup>1</sup>[Local Government] may, after previous publication, make rules consistent with this Act—

- (a) defining the manner in which notices and injunctions shall be published or served;
- (b) determining the rate of interest (if any) to be charged on advances made under this Act, and on sums expended by the Collector under section 10;
- (c) fixing the period within which and the instalments by which such advances and sums shall be repaid;
- (d) prescribing the manner of keeping and auditing the accounts of the expenditure of such advances and sums, and of the repayment made in respect of the same;

<sup>1</sup> The words "Local Government" were substituted for the word "Government" by s. 8 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

<sup>2</sup> For rules under s. 20, see the U. P. Local Rules and Orders.



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- (e) prescribing the mode of assessment of sums recoverable under section 13 and the agency by which such sums shall be assessed and recovered;
- (f) prescribing the measures which may be taken under section 17;
- (g) limiting the sums which may be recovered under section 18;
- (h) specifying the cases in which any action taken under section 17 shall be reported to the <sup>1</sup>[Local Government]; and
- (i) generally for the purposes of giving effect to the provisions of this Act.

21. Any sum becoming due under this Act, and not paid on or before the date fixed for payment, shall be recoverable by the Collector as if it were an arrear of land-revenue.

Recovery of  
arrears due  
to Local  
Government.

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## THE UNITED PROVINCES VILLAGE COURTS ACT, 1892.

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<sup>1</sup> The words "Local Government" were substituted for the word "Government" by s. 8 of the United Provinces Village Sanitation (Amendment) Act, 1912 (U. P. Act 5 of 1912), *infra*.

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7. Records of Proceedings and Registers of Village Court.
8. Service of summonses and execution of orders.

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 CHAPTER III.
JURISDICTION, *RES JUDICATA* AND LIMITATION.

9. Cognizance of suits by Village Courts.
10. Jurisdiction up to Rs. 200 with consent.
11. Court in which suit to be instituted.
12. Suit in which Court is personally interested.
13. *Res judicata* and pending suits.
14. Suit to include whole claim.
15. Incidental determination of matters not cognizable by Village Courts.
16. Limitation.
17. Suits cognizable by Village Courts may be heard by any other Civil Court having jurisdiction.
18. Transfer of suits.

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 CHAPTER IV.

## OF THE INSTITUTION AND FRAME OF SUITS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS, AND CONSEQUENCES OF NON-APPEARANCE.

19. Suit to be commenced by plaintiff.
20. Particulars to be contained in plaintiff.
21. Amendment of plaintiff.
22. Rejection of plaintiff.
23. Appearance in person or by agent.
24. Summons to defendant how served.
25. Mode of service when defendant evades service.
26. Mode of service when defendant is beyond Court's circle.
27. Procedure if defendant does not appear.  
Defendant may claim seven days' notice of suit.
28. Procedure where plaintiff does not appear and defendant does not admit claim, or where summons not served through plaintiff's default.
29. Procedure where the plaintiff does not appear and defendant admits claim.

## SECTIONS.

- 30. Setting aside order under section 28 or 29 on cause shown
  - 31. Setting aside *ex parte* decree against defendant.
  - 32. No decree to be set aside without notice to opposite party
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## CHAPTER V.

OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS AND OF THE  
SUMMONING AND EXAMINATION OF WITNESSES.

- 33. Procedure on appearance of both parties.
  - 34. Withdrawal of suit.
  - 35. When suit may be settled by oath or solemn affirmation.
  - 36. Set-off.
  - 37. Witnesses not present to be summoned.
  - 38. Summonses to witnesses how served.
  - 39. Summons to appear and give evidence or to produce document.
  - 40. Exemption of certain persons from personal attendance.
  - 41. Interrogatories when to issue.
  - 42. Examination of witnesses.
  - 43. Adjournment in view to amicable settlement or for other cause.
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## CHAPTER VI.

## OF THE DECREE AND ITS EXECUTION.

- 44. On conclusion of hearing Court to make decree.
- 45. Contents of decree.
- 46. Decree may award interest or order payment by instalments.
- 47. Court by which decree may be executed.
- 48. Decree for specific moveable how executed.
- 49. Payment of money under a decree or other adjustment to be made or recorded in presence of Village Munsif.
- 50. Judgment-debtor not to be arrested nor immoveable property attached.
- 51. Attachment of moveable property.
- 52. How made, if in possession of judgment-debtor.
- 53. How made, if not in possession of judgment-debtor.
- 54. Debts how attached.
- 55. Private alienation of property after attachment void
- 56. Investigation of claims to attached property.
- 57. Property to be sold not less than fifteen days after attachment and sale to be proclaimed.

## SECTIONS.

58. Procedure in sale.
59. Power to adjourn sale.
60. Village Munsif and other officers not to bid for or buy property sold.
61. Stoppage of sale on tender of debt and costs.
62. Division of proceeds of sale.
63. Property actually seized to be delivered to purchaser.
64. In other cases how property delivered to purchaser.
65. Decree may be transmitted to Village Munsif or Munsif for execution.
66. District Judge may withdraw execution of any decree.
67. Village Munsif not to entertain application relating to decree transmitted to Munsif, or withdrawn by Judge.

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CHAPTER VII.

## MISCELLANEOUS.

68. If on death of party to suit application is made, legal representative of deceased may be entered on record.
69. If no application made, suit to be dismissed.
70. If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.
71. If decree-holder die, his legal representative may be substituted.
72. If judgment-debtor die, decree may be executed against his legal representative.
73. Revision by District Judge of Village Court's proceedings.
74. Fees chargeable under Act.
75. Postage.
76. Power of High Court to prescribe forms and rules; and of District Judge to inspect records.
77. Power of Government to make rules.
78. Withdrawal of district or circle from operation of Act; and alteration of limits of circles.
79. How suits pending when district or circle is withdrawn from operation of Act are to be disposed.
80. Exclusion of Code of Civil Procedure, Provincial Small Cause Courts Act, and Court-fees Act.

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THE SCHEDULE.

## PERIOD OF LIMITATION FOR CERTAIN SUITS.

UNITED PROVINCES ACT No. III of 1892.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[27th November, 1892; 14th February 1893.]

An Act to provide for the establishment of Village Courts in the North-Western Provinces and Oudh.

WHEREAS it is expedient to establish Village Courts in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the <sup>2</sup>North-Western Provinces and Oudh Village Courts Act, 1892.

(2) It extends to the territories for the time being administered by the <sup>3</sup>Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Title, extent  
and com-  
mencement.

(3) It shall come into force at once.

2. In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

Definitions.

(1) “village” means any local area recorded as a village in the revenue records of the district in which it is situated, but does not include any area included in the limits of a municipality or in which

<sup>4</sup>Act XX of 1856 is in force:

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1892, Pt. V, dated 20th August, p. 9; for Report of the Select Committee, see *ibid*, dated 5th November, 1892, p. 15; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 168 and 358.

On and from the date on which the United Provinces Village Panchayat Act, 1920, comes into operation in any local areas this Act shall be deemed to be repealed in respect of such local area and all courts established thereunder in such area shall be abolished. See s. 2 of U. P. Act 6 of 1920, *infra*, Vol. III.

<sup>2</sup> Read now “United Provinces Village Courts Act, 1892,” see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), s. 23 (2), *infra*.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> The Bengal Chankidari Act, 1856 (20 of 1856), has been repealed in the United Provinces by U. P. Act 2 of 1914, *infra*. See s. 43 of the latter Act.

(2) "Village Munsif" means the Judge of a Village Court established under this Act:

(3) "Collector" means the Chief Officer in charge of the revenue-administration of the district in which the Village Court is situated:

(4) "District Judge" and "Munsif" mean, respectively, the District Judge and the Munsif appointed under 'Act XII of 1887 or 'Act XIII of 1879, within the local limits of whose jurisdiction the Village Court is situated:

(5) "circle" means the area within which a Village Munsif exercises jurisdiction:

(6) "immoveable property" includes land, buildings, rights to ways, lights, ferries, fisheries, or any other benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth; but not growing crops or grass:

(7) "moveable property" means property of every description, except immoveable property:

(8) "chaukidar" means a village policeman appointed under the 'North-Western Provinces Village and Road Police Act, XVI of 1873, or under the 'Oudh Laws Act, XVIII of 1876.

Application  
of Act

3. The Government may, by notification published in the Gazette, apply this Act to any district or part of a district.<sup>2</sup>

## CHAPTER II.

### ESTABLISHMENT AND CONSTITUTION OF VILLAGE COURTS.

Establish-  
ment of Vil-  
lage Courts.

4. The Government shall, by <sup>2</sup>notification published in the Gazette—

- (1) <sup>2</sup>divide a district or part of a district, to which this Act has been applied, into circles containing one or more villages or parts of villages; and may
- (2) <sup>2</sup>establish a Village Court within and for each such circle.

A Village Court so established shall be held by the Village Munsif at any place within the circle.

Appointment  
of Village  
Munsif.

5. Village Munsifs shall be appointed by the Collector in accordance with the rules made under this Act, and shall hold office for such period as may be prescribed:

<sup>1</sup> *Supra*, Vol. I.

<sup>2</sup> For notifications applying the Act under s. 3 to areas in the United Provinces, dividing districts into circles under s. 4 (1), and establishing Village Courts under s. 4 (2), see the U. P. Local Rules and Orders.

Provided that no person not residing within the circle for which the Village Court is constituted shall be eligible for that office.

6. The Collector, after such inquiry as may be necessary and with the written approval of the Commissioner of the Division, may by an order in writing suspend or remove a Village Munsif for incapacity, neglect of duty, misconduct or other just and sufficient cause.

Suspension or removal of Village Munsif.

The Collector shall be bound to suspend or remove a Village Munsif, on a requisition passed by the District Judge, for like causes appearing in the judicial proceedings of such Village Munsif.

From every order suspending or removing a Village Munsif an appeal may be made to the Government, within three months from the date of the order.

7. The Village Munsif shall keep in the Persian or Devanagari character a record in writing of the proceedings of the Court; and a register or registers showing—

Records of Proceedings and Registers of Village Courts.

(1) suits preferred, and

(2) applications for the execution of decrees.

The record of the proceedings and the register or registers may be written either by the Village Munsif himself, or, under his immediate supervision, by any other person employed for this purpose: provided that no person shall be generally so employed without the approval of the Collector.

8. For the purpose of serving summonses and notices under this Act, and for carrying out the orders of the Village Munsif in seizing, selling, and delivering moveable properties attached under this Act, the Village Munsif may employ the chaukidar of any village situated within the circle, or any other person: provided that no person, except a chaukidar, shall be generally so employed without the approval of the Collector.

Service of summonses and execution of orders.

It shall be the duty of the chaukidar to serve such summonses and notices, and to carry out such orders, as may be delivered and given to him by the Village Munsif under this section.

### CHAPTER III.

#### JURISDICTION, *RES JUDICATA*, AND LIMITATION.

9. The following are the suits which shall be cognizable by Village Munsifs, *viz.*, claims for money due on contract, or for moveable property or for the value of such property, or for compensation for wrongfully taking or injuring such property, when the debt or demand, or

Cognizance of suits by Village Courts.

compensation, does not exceed in amount or value the sum of rupees twenty :

Provided that no suit shall be brought in any Village Court—

- (1) on a balance of partnership account;
- (2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;
- (3) by or against Government or public officers in their official capacity;
- (4) by or against minors or persons of unsound mind;
- (5) on account of any dispute or matter in which any suit or application may be brought or made in the Rent and Revenue Courts.

Jurisdiction  
up to Rs. 200  
with consent

**10.** With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in section 9, the amount or value of which does not exceed Rs. 200.

Court in  
which suit to  
be instituted.

**11.** Subject to the provisions contained in section 12, every suit brought under this Act shall be instituted in the Village Court of the circle in which all the defendants at the time of the commencement of the suit reside, or carry on business, or personally work for gain.

Suit in which  
Court is  
personally  
interested.

**12.** No Village Munsif shall try any suit to which he is a party or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

*Res judicata*  
and pending  
suits.

**13.** No Village Court shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and determined by, a Court of competent jurisdiction, in a former suit between the same parties, or those under whom they claim.

*Explanation.*—The incidental decision by a Village Court under section 15 of any matter in dispute between the parties to a suit shall be deemed to be, for the purposes of this section, the decision of a Court of competent jurisdiction, unless subsequent to such incidental decision the matter has been heard and determined by a Court of competent jurisdiction other than a Village Court.

Suit to in-  
clude whole  
claim.

**14.** Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Court.

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall be precluded from bringing a separate suit for or in respect of the portion so omitted or relinquished.

Incidental  
determina-  
tion of  
matters not  
cognizable by

**15.** If in the decision of a suit cognizable by a Village Court, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immoveable property, or the legal character of either of the parties, or of those under whom they



claim, or the existence of any contract or obligation, which if it had been the immediate subject-matter of the suit, would not be cognizable under this Act by a Village Court, the Village Court may decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other suit or proceeding in a Court other than a Village Court, though between the same parties or their representatives.

16. No suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued. For suits entered in the schedule special periods of limitation are prescribed.

17. Notwithstanding anything hereinbefore contained, a suit cognizable by a Village Court may be instituted in, and heard by, any other Civil Court which has jurisdiction to try it.

Suits cognizable by Village Courts may be heard by any other Civil Court having jurisdiction; Transfer of suits.

18. The Munsif may, on the application of the plaintiff made before the defence to the suit has been recorded or filed under section 33, withdraw any suit from a Village Court, and try it himself, as if it had been instituted in his own Court.

The Munsif shall withdraw any suit from a Village Court and try it himself as if it had been instituted in his own Court—

- (1) if the defendant applies for such withdrawal at any time before the defence to the suit has been recorded or filed under section 33, or
- (2) if the Munsif is satisfied, on the application of either of the parties to the suit, made at any time before the suit is decided, that the Village Munsif is a party to or interested in the suit:

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsif shall, before any such order of transfer is made, pay the amount of the fees payable under the Court-fees Act, 1870, in respect of the plaint.

VII of 1870.

#### CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS, AND CONSEQUENCES OF NON-APPEARANCE.

19. Every suit under this Act shall be instituted by presenting a plaint to the Village Court together with as many copies thereof as there

Suit to be commenced by plaint.

<sup>1</sup> General Acts, Vol. II.

are defendants. One copy shall be delivered or affixed as hereinafter provided, together with the copy of the summons.

Particulars  
to be con-  
tained in  
plaint.

**20.** The plaint shall be written either in the Persian or in the Devanagari character, and shall be signed by the plaintiff. It shall contain the following particulars:—

- (1) The name, description and residence of the plaintiff and defendant;
- (2) A concise statement of the matter in dispute and when it arose;
- (3) The relief prayed for, and the total amount or value of the claim.

Amendment  
of plaint.

**21.** The plaint may be amended, at any time before or at the first hearing, by the Village Court of its own motion or on the application of the plaintiff, if it does not state correctly the several particulars required to be specified therein, or if it is defective in its statement of the matter in dispute, or of the relief prayed for, or if it is not signed by the plaintiff.

Rejection of  
plaint.

**22.** If upon the face of the plaint or after questioning the plaintiff it appears to the Court that the suit is beyond its cognizance, or is barred by lapse of time, the Court shall by order endorsed on it reject the plaint.

Appearance  
in person or  
by agent.

**23.** (1) The parties to a suit before a Village Court shall appear and plead before the Court either in person or by an agent; but the Village Munsif may, whenever he thinks it necessary for the ends of justice, order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

(2) The term "agent" means a servant, gomashta, karinda, partner, relation, or friend whom the Court may admit as a fit person to represent a party, and who is authorized by any general or special authority in writing to appear and plead for such party.

(3) Legal Practitioners shall not be permitted to practise in a Village Court.

Summons to  
defendant  
how served.

**24.** When the plaint has been duly presented, the Village Munsif shall cause it to be registered, and shall, by summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally, and a copy thereof, together with a copy of the plaint, shall be delivered to him by the person appointed for that purpose under section 8.

Mode of  
service when  
defendant  
evades service.

**25.** If the Village Munsif is satisfied that the defendant is evading service of the summons, he may order that it be served upon, and a copy thereof together with a copy of the plaint, delivered to, an adult male

member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the circle of the Village Court, it shall be forwarded—

- (1) to the Village Court of the circle within which the defendant resides; or
- (2) if the defendant does not reside within the circle of a Village Court, to the Munsif within whose jurisdiction he resides.

Mode of service when defendant is beyond Court's circle.

The Village Munsif, or Munsif, on receipt of the summons, shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

27. If a defendant does not appear in person or by agent, on the day fixed, and if the Court is satisfied that the summons was duly served, the Court may proceed *ex parte*.

If the Court is not satisfied that the summons was duly served, it shall issue a fresh summons.

Every defendant may claim seven clear days' notice of suit, and, if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to him.

Procedure if defendant does not appear. Defendant may claim seven days' notice of suit.

28. If on the day fixed for the defendant to appear—

- (1) neither party appears, or
- (2) the plaintiff does not appear and the defendant appears, and does not admit the claim, or
- (3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed, unless the Village Court otherwise directs.

Procedure where plaintiff does not appear and defendant does not admit claim, or where summons not served through plaintiff's default.

29. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission.

Procedure where the plaintiff does not appear and defendant admits claim.

30. Whenever a suit is dismissed under clause (1) or clause (3) of section 28, the plaintiff may bring a fresh suit; and if within thirty days from the date of the dismissal under clause (2) of section 28 or of a decree made for only a part of the claim under section 29, the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from

Setting aside order under section 28 or 29 on cause shown.

appearing, the Court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit.

Setting aside  
*ex parte*  
decree  
against  
defendant.

**31.** Any defendant against whom a decree has been made *ex parte* may, within thirty days from the date of executing any process for its enforcement, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served, or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree  
to be set  
aside with-  
out notice  
to opposite  
party.

**32.** No decree shall be set aside on any application under section 30 or section 31, unless notice has been served on the opposite party.

## CHAPTER V.

### OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS, AND OF THE SUMMONING AND EXAMINATION OF WITNESSES.

Procedure on  
appearance  
of both  
parties.

**33.** When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit be compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall make a decree in accordance therewith. If he does not admit the claim, he shall be required to state his objections either orally, in which case the Court shall record their substance, or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal  
of suit.

**34.** If the plaintiff wishes to withdraw a suit, he shall signify his wish in writing to the Court, which shall strike the suit off the file, and no fresh suit shall be brought in respect of the same matter.

When suit  
may be set-  
tled by oath  
or solemn  
affirmation.

**35.** If either party is willing to let the suit be settled by an oath or solemn affirmation in any form binding on the other, and such other party assents and takes the oath, or makes the affirmation, the Court shall give judgment according to such oath or affirmation.

Set-off.

**36.** The defendant may set-off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses  
not present  
to be sum-  
moned.

**37.** When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim and shall summon the witnesses cited by either party who are not present.

Summonses  
to witnesses  
how served.

**38.** Any witness residing within the circle of the Village Court may be summoned verbally or in writing. Any witness residing beyond the

Court's circle may be summoned in writing, and such summons shall be served—

- (1) through the Village Munsif of the circle within which the witness resides, or
- (2) if the witness does not reside within the circle of a Village Munsif, through the Munsif within whose jurisdiction he resides.

The Village Munsif, or Munsif, on receipt of the summons, shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court together with a report of such service.

39. A summons may direct the person summoned either to appear and give evidence, or to produce or cause the production of a document.

Summons to appear and give evidence or to produce document.

40. The following persons shall not be summoned :—

- (1) persons who are resident beyond the Court's circle at some place distant more than eight miles from the place where the Court is held;
  - (2) women who, according to the customs and manners of the country ought not to be compelled to appear in public ;
  - (3) persons exempt from personal appearance in Court ;
  - (4) any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience ; and
  - (5) persons exempted by the Government under this Act from personal appearance in a Village Court .
- Exemption of certain persons from personal attendance.

Provided that, when the evidence of any such person as is described in clause (2), clause (3), clause (4) or clause (5) is necessary, and such person resides within the Court's circle, the Village Munsif shall examine him at his residence.

41. (1) If any party to a suit desire that the evidence be taken of a witness, whose personal attendance cannot be required and who is resident beyond the Court's circle, the Village Munsif may, if he considers such evidence to be necessary, frame interrogatories for the examination of any such witness, and shall deliver or forward them with a letter to such person as the parties or the Village Munsif may appoint as a Commissioner for the purpose of examining the witness. If the Commissioner, so appointed, consents to act, he shall, without delay, examine the witness upon the interrogatories and return his answers to the Court in which the suit is pending. Every witness whom the Commissioner is thus empowered to examine shall be bound to give evidence when called.

Interrogatories when to issue.

upon to do so by the Commissioner, and for the purposes of this section the Commissioner shall be deemed to be a Village Munsif.

(2) If the parties or the Village Munsif do not appoint a Commissioner under clause (1) of this section, or if the Commissioner appointed thereunder refuses to act, and the witness resides within the circle of a Village Munsif, the Village Court shall forward the interrogatories to such Village Munsif; and such Village Munsif shall examine the witness upon the interrogatories and return his answers to the Court in which the suit is pending.

Examination  
of witnesses.

**42.** Witnesses shall be examined on oath or solemn affirmation, and the substance of their statements shall be recorded by the Village Court.

Adjournment  
in view to  
amicable  
settlement  
or for other  
cause.

**43.** If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed by sections 28 and 29, or make such other order as it thinks fit:

Provided that the Village Court shall adjourn the hearing to a day to be fixed in the presence of the parties, if either party applies for such adjournment on the ground that he has applied, or intends to apply, to the Munsif for the withdrawal of the suit under section 18. If, on such adjourned date, it appears that no application has been made to the Munsif for the withdrawal of the suit, the Village Court shall proceed with the hearing of the suit: or, if on such day the parties or any of them fail to appear, it may dispose of the suit in one of the modes prescribed by sections 28 and 29, or make such other order as it thinks fit.

## CHAPTER VI.

### OF THE DECREE AND ITS EXECUTION.

On conclusion  
of hearing  
Court to  
make decree.

**44.** When the parties or their agents have been heard and the evidence on both sides considered, the Village Court shall make such decree as may seem just, equitable and according to good conscience.

Contents of  
decree.

**45.** The decree shall contain the number of the suit, the names of the parties, the matter in dispute, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the moveable property to be delivered, the sum to be paid in default of delivery, and the amount of costs, and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is made and shall be signed by the Village Court. Each party shall be entitled to receive a copy upon application.

46. In suits for money the Village Court may, in its discretion, decree interest on the sum decreed, not exceeding six per cent. per annum from date of decree till date of payment.

Decree may award interest or order payment by instalments.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest, not exceeding the above rate.

47. The decree shall, on application in writing, be executed by the Village Court which made it, or by a Village Court or Munsif to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

48. If the decree be for any specific moveable, it may be enforced by the seizure of the property and its delivery to the decree-holder. If the seizure of the property be not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific moveable how executed.

49. All money payable under a decree made by a Village Court shall be paid to the decree-holder, or his agent specially authorised in writing, in the presence of the Village Munsif whose duty it is to execute the decree; but, if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing signed by him or his agent in the presence of, and attested by, such Village Munsif.

Payment of money under a decree or other adjustment to be made or recorded in presence of Village Munsif.

Such payment or adjustment shall be recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised unless it has been made or recorded in the manner prescribed by this section, or has been made or certified in the Court of a Munsif.

50. Subject to the provisions of sections 65 and 66, no judgment-debtor shall be arrested and no immoveable property attached in execution of a decree of a Village Court.

Judgment-debtor not to be arrested nor immoveable property attached.

51. On the application of the decree-holder, the Village Court shall attach any moveable property within its circle belonging to the judgment-debtor and pointed out by the decree-holder, to the value of the sum payable under the decree:

Attachment of moveable property.

Provided that the following properties shall not be liable to such attachment, namely:—

- (1) the necessary wearing apparel and bedding of the judgment-debtor, his wife and children;

- (2) tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;
- (3) books of account;
- (4) stipends and gratuities payable to military and civil pensioners of Government, and political pensions;
- (5) the salary due to a public officer or to any servant of a railway company or local authority, unless such salary exceeds twenty rupees monthly, in which case a moiety of it may be attached;
- (6) the pay and allowances of persons to whom the <sup>1</sup>[Indian] V of 1869. Articles of War<sup>2</sup> apply; and
- (7) the wages of labourers and domestic servants.

How made if  
in posses-  
sion of judg-  
ment-debtor.

52. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the Village Munsif shall provide for its safe custody. It may be left in the custody of the judgment-debtor, upon sufficient security being given in writing by his surety for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

How made  
if not in pos-  
session of  
judgment-  
debtor.

53. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written notice prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how  
attached.

54. Debts and moneys due to the judgment-debtor shall be attached by a written notice prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorise a Village Court to attach a debt charged on immoveable property.

Debts and moneys attached under this section may be paid into the Village Court, and such payment shall discharge the debtor as effectually as payment to the judgment-debtor.

Private  
alienation of  
property  
after attach-  
ment void.

55. When an attachment has been made by actual seizure or by a written notice, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation  
of claims to  
attached pro-  
perty.

56. If any claim be preferred to property attached in execution of a decree, or if any objection be raised to such attachment, the Village

<sup>1</sup> Substituted for "Native" by s. 1 of U. P. Act 2 of 1894, *infra*.

<sup>2</sup> Act 5 of 1869 was repealed by the Indian Army Act (8 of 1911) Genl. Acts, Vol. VII.



Court shall investigate the claim or objection, and if it appears that the judgment-debtor has no saleable interest in the property, or that the objection is valid, such property shall be released from attachment.

57. As soon as possible after attachment, the Village Court shall fix a day, not less than fifteen days from the date of attachment, for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale be further proclaimed by beat of drum previous thereto:

Property to be sold not less than fifteen days after attachment and sale to be proclaimed

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expenses of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case the Court shall hold the sale-proceeds subject to the provisions hereinafter made for payment of moneys realised in execution of decrees.

58. On the day fixed for the sale the property shall be put up for sale by public auction in the presence of the Village Munsif and sold to the highest bidder. The price shall be paid without delay, and in default the property shall again be put up to sale.

Procedure in sale.

On payment of the purchase-money, the Court shall grant a receipt for the same and the sale shall become absolute.

Any loss on re-sale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree had been made against him for the same.

59. Any sale advertised under this Act may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 57.

Power to adjourn sale.

60. No Village Munsif or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

Village Munsif and other officers not to bid for or buy property sold.

61. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs attending the sale are tendered to the Village Court.

Stoppage of sale on tender of debt and costs.

62. Out of moneys realised in execution, the cost of execution shall first be defrayed, and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Division of proceeds of sale.

63. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

Property actually seized to be delivered to purchaser.

64. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, the property shall be delivered to the purchaser.

In other cases how property

delivered to  
purchaser.

ment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Decree may  
be trans-  
mitted to  
Village Mun-  
sif or Munsif  
for execution.

**65.** (1) Any decree which cannot be fully executed by the Village Court which made it may, on the application of the decree-holder to that Court, be transmitted for execution to any other Village Court within the circle of which the judgment-debtor is represented to have moveable property. Such Court shall proceed as if the decree was passed by itself.

(2) Any decree may, on the application of the decree-holder to the Village Court, be transmitted to the Court of the Munsif, who may execute the same as if it were a decree passed by himself, subject to the ordinary law of limitation applicable to the proceedings in his Court:

Provided that the Village Court which transmits the decree certifies to the Munsif that the decree cannot be fully executed by itself, or by the Village Court of any other circle.

District  
Judge may  
withdraw  
execution of  
any decree.

**66.** The District Judge may withdraw the execution of any decree from any Village Court, and deal with it as if it were a decree transferred to his Court for execution, subject to the ordinary law of limitation applicable to proceedings in his Court.

Village Mun-  
sif not to  
entertain  
application  
relating to  
decree trans-  
mitted to  
Munsif, or  
withdrawn  
by Judge.

**67.** A Village Court shall not entertain any application relating to any decree after such decree has been transmitted to the Munsif, or withdrawn by the District Judge.

## CHAPTER VII.

### MISCELLANEOUS.

If on death  
of party to  
suit, applica-  
tion is made,  
legal repre-  
sentative of  
deceased may  
be entered  
on record.

**68.** If a plaintiff or a defendant die before decree is made in the suit, the name of his legal representative may be entered in his place on the record, on the application of the opposite party or of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

If no appli-  
cation made,  
suit to be  
dismissed.

**69.** If no such application be made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same matter.

If more than  
one plaintiff

**70.** If there be more plaintiffs or defendants than one, and any of them die, and his representative is not joined as aforesaid, the suit shall

proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

or defendant  
suit to pro-  
ceed at in-  
stance of or  
against  
survivor.  
If decree-  
holder die,  
his legal  
representative  
may be sub-  
stituted.

71. If a decree-holder die before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the room of the deceased, and if the Court be satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

72. If a judgment-debtor die before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of assets derived from him and not duly accounted for.

If judg-  
ment-debtor  
die, decree  
may be exe-  
cuted against  
his legal  
representa-  
tive  
Revision by  
District  
Judge of  
Village  
Court's pro-  
ceedings.

73. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, or misconduct of the Village Court; or of its having exercised a jurisdiction not vested in it by law, or having failed to exercise a jurisdiction so vested, or having acted in the exercise of its jurisdiction with material irregularity, and may make such other decree or order as he thinks fit:

Provided that no decree or order of a Village Court shall be set aside without notice to the opposite party. Pending disposal of any such petition, the District Judge may stay execution of the decree or order. A petition under this section may be entertained after thirty days by the District Judge, if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

74. Fees may be charged under this Act for—

Fees charge-  
able under  
Act.

(1) entering in the register prescribed under section 7, (a) a suit and (b) an application for the execution of a decree:

(2) issuing—

- (a) a summons to a defendant or a witness;
- (b) a notice under section 32;
- (c) a notice under section 53, 54 or 64; and
- (d) a proclamation of sale under section 57 or 59:

(3) supplying copies of decrees and other documents:

(4) seizing and attaching moveable property under section 48 or 51: and

(5) holding a sale under section 57 or 58.

The Government shall make <sup>1</sup>rules in regard to the amount and disposal of such fees respectively.

Postage.

**75.** Postage, when chargeable on any summons, notice, or other proceeding issued by a Village Court under this Act, and forwarded by post, as well as the fees for registering the same, shall be paid before the communication is forwarded.

Power of Government to prescribe forms and rules; and of District Judge to inspect records  
Power of Government to make rules.

**76.** The <sup>2</sup>[Government] may, from time to time, <sup>1</sup>prescribe forms for use in Village Courts and the returns which they shall be bound to submit, and may make rules for the custody and destruction of their records. The District Judge may, at any time, call for and inspect the registers and records of Village Courts.

**77.** The Government may, after previous publication, <sup>3</sup>\* \* \* make rules <sup>1</sup>consistent with this Act, with respect to all or any of the following matters, namely:—

- (1) the area and population to be ordinarily included within the jurisdiction of a Village Munsif, and the formation of the circles;
- (2) the period for which Village Munsifs shall hold office;
- (3) the qualifications of Village Munsifs, and the method by which they shall be appointed;
- (4) the exemption of persons from personal appearance in a Village Court; and
- (5) generally, the carrying out of the purposes of this Act.

Withdrawal of district or circle from operation of Act and alteration of limits of circles.

**78.** The Government may, by notification<sup>1</sup> published in the Gazette—

- (1) withdraw any district, part of a district, or circle, from the operation of this Act;
- (2) alter the limits of the circles framed under the provisions of section 4, retaining, increasing or reducing their number.

How suits pending when district or circle is withdrawn from operation of Act are to be disposed.

**79.** When any district, part of a district, or circle is withdrawn from the operation of this Act, all suits pending in any Village Court situated therein shall be heard and determined, and all decrees made by such Court and remaining unexecuted shall be executed by the Civil Court which, if the suit was about to be instituted, would have jurisdiction to try it.

<sup>1</sup> For rules under ss. 74, 76 and 77 and for notifications revising or altering limits of circles under s. 78, see the U. P. Local Rules and Orders.

<sup>2</sup> Substituted for "High Court" by U. P. Act 2 of 1894, s. 2, *infra*.

<sup>3</sup> The words "and subject to the approval of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

1892: U. P. Act III.] *Village Courts.*

501

1894: U. P. Act II.] *Village Courts.*

Such suit shall be tried and such decrees shall be executed as suits instituted in, or decrees made by, such Civil Court.

XIV of 1882. 80. (7) The Code of Civil Procedure shall not apply to suits and proceedings before Village Courts under this Act. Exclusion of Code of Civil Procedure, Provincial Small Cause Courts Act, and Court-fees Act.

IX of 1887. (2) Nothing in the <sup>2</sup>Provincial Small Cause Courts Act, 1887, shall be construed to affect the jurisdiction of Village Courts under this Act.

(3) No plaint, petition or application presented to, or other proceeding in a Village Court under this Act, shall be chargeable under the

VII of 1870. <sup>3</sup>Court-fees Act, 1870.

### THE SCHEDULE.

#### PERIOD OF LIMITATION FOR CERTAIN SUITS.

(See section 16.)

Description of suit.	Period of limitation.	Time from which period begin to run.
1. For the wages of a household servant, artizan or labourer.	One year . . .	When the wages accrue due.
2. For the price of food or drink, sold by the keeper of a hotel, tavern or lodging-house.	One year . . .	When the food or drink is delivered.
3. For the price of lodging . . .	One year . . .	When the price becomes payable.

#### UNITED PROVINCES ACT No. II OF 1894.<sup>4</sup>

[APPLIES TO THE UNITED PROVINCES.]

[6th March, 1894; 21st May, 1894.]

#### An Act to amend the <sup>5</sup>North-Western Provinces and Oudh Village Courts Act, 1892.

WHEREAS it is expedient to amend the <sup>5</sup>North-Western Provinces and Oudh Village Courts Act, 1892; It is hereby enacted as follows:—

U. P. Act III of 1892. 1. In clause (6) of section 51 of the <sup>5</sup>North-Western Provinces and Oudh Village Courts Act, 1892, for the word "Native" the word "Indian" shall be substituted. Amendment of section 51.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Genl. Acts, Vol. IV.

<sup>3</sup> Genl. Acts, Vol. II.

<sup>4</sup> For Statement of Objects and Reasons, see N.-W. P. and Oudh Gazette, 1893, Pt. V, dated the 9th December, 1893, p. 14; and for Proceedings in Council, see *ibid*, 1893, Pt. VI, p. 486, and *ibid*, 1894, Pt. VI, p. 64.

<sup>5</sup> *Supra*. Read now "United Provinces Village Courts Act, 1892," see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), s. 28 (2), *infra*.

Amendment  
of section 76.

2. In section 76 of the said Act the word "Government" shall be substituted for the words "High Court."

UNITED PROVINCES ACT No. IV OF 1894.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[18th October, 1894; 31st December, 1894.]

An Act for the validation of the registration and authentication of certain documents in the North-Western Provinces and Oudh.

WHEREAS—

- (a) the registration sub-district now known as Dudhi, in the district of Mirzapur, has been formed by sub-division from the sub-district of Robertsganj; and
- (b) the office of the Sub-Registrar in the registration sub-districts specified in column 2 of the First Schedule has been abolished and the said sub-districts have been included within the limits of the adjoining sub-districts severally specified against them in column 3 of the said Schedule;

and the formation of the aforesaid new sub-district, and the alterations in the limits of the aforesaid sub-districts, were not previously notified in the Gazette as required by section 5 of the <sup>2</sup>Indian Registration Act, 1871, or of the Indian Registration Act, 1877;

IX of 1871.  
III of 1877.

And whereas contrary to the provisions of section 7 of the said Acts—

- (c) the office of the Registrar of the Family Domains of the Maharaja of Benares was not established within the limits of his registration district, but within the limits of the Mirzapur registration district; and
- (d) the Registrar of the Tarai district has on occasions held his office outside the limits of his district; and
- (e) the offices of the registration sub-districts specified in column 2 of the Second Schedule were not established within the said sub-districts, but within the sub-districts severally specified against them in column 3 of the said Schedule;

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1894, Pt. V, dated 24th February, p. 3; for Report of the Select Committee, see *ibid*, dated 22nd September, 1894, p. 1; and for Proceedings in Council, see *ibid*, 1893, Pt. VI, p. 484, *ibid*, 1894, pp. 64 and 278, and *ibid*, Extraordinary, dated 1st August, 1894, p. 24.

<sup>2</sup> See now Act XVI of 1908, Genl. Acts, Vol. VI.

And whereas documents have been registered and authenticated and acts done on the assumption that the provisions of the law in the aforesaid respects had been duly complied with, and it is expedient to validate the said registrations, authentications and acts;

It is hereby enacted as follows:—

1. This Act shall come into force at once.

2. No registration or authentication of any document and no act done before the commencement of this Act, shall be deemed to be invalid or otherwise open to objection, merely by reason of any of the irregularities set forth in the preamble to this Act.

*The First Schedule.*

1	2	3
Name of registration district.	Name of reduced registration sub-district.	Name of registration sub-district to which united.
Bareilly . . .	Bisalpur Municipality . . .	Bisalpur.
Fyzabad . . .	Dharmanpur . . .	Nanpara.
" . . .	Baundi . . .	Fakhrpur.
" . . .	Amaniganj . . .	Bikapur.
" . . .	Majhaura . . .	Maharajganj.
" . . .	Charda . . .	Nanpara.
" . . .	Tulsipur . . .	Bhinga.
Lucknow . . .	Lucknow City I . . .	Lucknow City II.
" . . .	Satrikh . . .	Bara Banki (Nawabganj).
" . . .	Nigohan . . .	Mohanlalganj.
" . . .	Fatehpur . . .	Safipur.
" . . .	Mawai . . .	Ramsanehi.
" . . .	Mahammadpur . . .	Fatehpur.
" . . .	Bado Sarai . . .	Ramnagar.
" . . .	Subeha . . .	Haidargarh.
" . . .	Dewa . . .	Kursi.
Rae Bareli . . .	Hardoi . . .	Digbijaiganj.
" . . .	Inhauna . . .	Mohanganj.
" . . .	Agresar ( <i>Asl</i> ) . . .	Amethi.
" . . .	Jamun . . .	Isauli.

*The First Schedule—contd.*

1	2	3
Name of registration district.	Name of reduced registration sub-district.	Name of registration sub-district to which united.
Rae Bareh . . .	Manikpur . . . . .	Rampur Dhingwas . . . .
„ . . .	„ . . . . .	Bihar.
Sitapur . . .	Magdepur . . . . .	Muhamdi.
„ . . .	Pirnagar . . . . .	Sitapur.
„ . . .	Maholi . . . . .	„
„ . . .	Laharpur . . . . .	Hargaon.
„ . . .	Hargaon . . . . .	Laharpur.
„ . . .	Pasgawan . . . . .	Muhamdi
„ . . .	Dhaurahra . . . . .	Singhai.

*The Second Schedule.*

1	2	3
Name of registration district.	Name of registration sub-district.	Name of registration sub-district within the limits of which the office of the sub-district specified in column 2 was established.
Agra . . . .	Agra . . . . .	Agra Municipality.
„ . . . .	Muttra . . . . .	Muttra „
Allahabad . . . .	Chail . . . . .	Allahabad „
„ . . . .	Allahabad Cantonment . . . .	„ „
Bareilly . . . .	Karor . . . . .	Bareilly „
„ . . . .	Pilibhit . . . . .	Pilibhit „
„ . . . .	Bisalpur . . . . .	Bisalpur „
Benares . . . .	Benares . . . . .	Benares „
Jaunpur . . . .	Jaunpur . . . . .	Jaunpur „
Kumaun . . . .	Bhabar . . . . .	Nainital
Lucknow . . . .	Lucknow pargana . . . . .	Lucknow I.
Mirzapur . . . .	Mirzapur . . . . .	Mirzapur Municipality.
Sitapur . . . .	Beniganj . . . . .	Sandila.



THE UNITED PROVINCES HONORARY MUNSIFS ACT,  
1896.

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12. Appointment and removal of ministerial officers.
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UNITED PROVINCES ACT No. II of 1896.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[30th August, 1896; 11th December, 1896.]

An Act to provide for the appointment of Honorary Munsifs and for the constitution of Benches of Honorary Munsifs in the North-Western Provinces and Oudh.

WHEREAS it is expedient to provide for the appointment of Honorary Munsifs and for the constitution of Benches of Honorary Munsifs in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

<sup>1</sup> This Act was introduced as a Bill to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, and the Oudh Civil Courts Act, 1879; for Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1893, Pt. V, dated the 1st April, p. 2; the title was changed to that now borne by the Act, in Select Committee and the Bill was altered accordingly; for Report of the Select Committee, see *ibid*, 1894, Extraordinary, dated 1st August, 1894, p. 1; for Second Report of the Select Committee on the Bill so altered, see *ibid*, 1895, Extraordinary, p. 1, and for the Third and Final Report of the Select Committee, see *ibid*, 1896, dated 24th July, p. 2; for Proceedings in Council, see *ibid*, 1893, dated 3rd April, p. 34, *ibid*, Pt. VI, p. 484, *ibid*, Extraordinary, dated 1st August, 1894, p. 23, *ibid*, 1895, Pt. VI, pp. 56 and 258; *ibid*, Extraordinary, dated 1st July, 1895, p. 41, *ibid*, 1896, Pt. VI, p. 122, and *ibid*, Extraordinary, dated the 24th July, 1896, p. 22.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the <sup>1</sup>North-Western Provinces and Oudh Honorary Munsifs Act, 1896.

(2) It extends to the territories for the time being administered by the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces and the <sup>3</sup>Chief Commissioner of Oudh: and

(3) It shall come into force at once.

Repeal.

2. (1) Section 15 of the "Oudh Civil Courts Act, 1879, is hereby XIII of 1879 repealed:

(2) But all Honorary Assistant Commissioners invested with powers under the provisions of that section shall be deemed to have been appointed Honorary Munsifs under this Act, and, in respect of proceedings mentioned in sub-section (1) of section 11, shall continue to exercise such jurisdiction as they now possess as Honorary Assistant Commissioners.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Honorary Munsif" means a person invested with the powers of an Honorary Munsif under this Act:

(2) "Bench" means a Bench of Honorary Munsifs constituted under this Act: and

(3) "District Judge," "Subordinate Judge" and "Munsif" mean, respectively, the District Judge, the Subordinate Judge and the Munsif appointed under the <sup>4</sup>Bengal, North-Western Provinces<sup>4</sup> and Assam Civil Courts Act, 1887, or the <sup>3</sup>Oudh Civil Courts Act, 1879, XII of 1887, within the local limits of whose jurisdiction an Honorary Munsif or XIII of 1879. Bench is empowered to try suits.

Power to  
appoint  
Honorary  
Munsifs.

4. The Local Government may, by notification in the Gazette, appoint any person to be an Honorary Munsif, and may in like manner cancel such appointment.

Benches of  
Honorary  
Munsifs.

5. (1) The Local Government may, by notification in the Gazette, appoint any two or more Honorary Munsifs by name to be members of a Bench, and make rules respecting the constitution of such Bench.

(2) While such notification remains in force the powers of such Honorary Munsifs shall, subject to the provisions of this Act, be exercised by the Bench so constituted, and not otherwise.

<sup>1</sup> Read now "United Provinces Honorary Munsifs Act, 1896," see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), s. 28 (2), *infra*.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> *Supra*, Vol. I.

<sup>4</sup> Read now "Agra" for "N.-W. Provinces"—see Act 16 of 1911, s. 2, *supra*, Vol. I.

XII of 1887.  
XIII of 1879. 6. Every Honorary Munsif appointed under section 4, and every Bench constituted under section 5, shall be deemed to be a Munsif within the meaning of the 'Bengal, North-Western Provinces<sup>2</sup> and Assam Civil Courts Act, 1887, or of the 'Oudh Civil Courts Act, 1879, as the case may be, and, save as hereinafter excepted, all the provisions of those Acts applicable to Munsifs shall apply, as far as may be, to all Honorary Munsifs and Benches in the North-Western Provinces and Oudh, respectively. •

Status of  
Honorary  
Munsifs  
and Benches.

7. (1) Subject to the provisions of this Act, the jurisdiction of an Honorary Munsif or of a Bench shall be concurrent with that of the Munsif or, where there is no Munsif, with that of the Subordinate Judge. Jurisdiction.

IX of 1887. (2) An Honorary Munsif or Bench shall not take cognizance of any suit specified in the Second Schedule of the 'Provincial Small Cause Courts Act, 1887, as excepted from the cognizance of a Court of Small Causes.

(3) Subject to the exceptions specified in that Schedule and to the provisions of this Act, the jurisdiction of an Honorary Munsif extends to all original suits of a civil nature, the value of the subject-matter of which does not exceed two hundred rupees.

IX of 1887. (4) '[Nothing in section 16 of the 'Provincial Small Cause Courts Act of 1887 shall be deemed to affect the jurisdiction of Honorary Munsifs or Benches under this Act, and no powers exercised, or orders issued, by an Honorary Munsif or Bench since the commencement of this Act shall be deemed to have been exercised or issued illegally and without jurisdiction merely by reason of the operation of the aforesaid section.]

8. (1) No suit or proceeding other than an application of the kind specified in sub-section (1) of section 11 shall be instituted in the Court of any Honorary Munsif or Bench, but an Honorary Munsif or a Bench shall try the suits transferred to the Court of such Honorary Munsif or Bench as provided in sub-section (2). • Institution of suits.

(2) '[The District Judge shall from time to time, having regard to the number of cases pending in the respective courts, transfer for trial from the court of the Subordinate Judge or of the Munsif or of the Small Cause Court Judge to an Honorary Munsif or Bench such number of

<sup>1</sup> *Supra*, Vol. I.

<sup>2</sup> Read now "Agra" for "N.-W. Provinces"—see Act 16 of 1911, s. 2, *supra*, Vol. I.

<sup>3</sup> Genl. Acts, Vol. IV.

<sup>4</sup> Sub-section (4) was inserted by s. 1 of the United Provinces Honorary Munsifs (Amendment) Act, 1904 (U. P. Act 2 of 1904), *infra*.

<sup>5</sup> Sub-section (2) of s. 8 was substituted by s. 2 of *ibid*.

cases cognizable by such Honorary Munsif or Bench as he deems advisable:

Provided that the last paragraph of section 25 of the <sup>1</sup>Code of Civil XIV of 1882. Procedure shall not be deemed applicable to cases so transferred from Courts of Small Causes, and that, except with the written consent of all the parties, no case in which the issues have already been framed shall be so transferred.]

(3) The Local Government may, by notification in the Gazette, direct that the provisions of sub-sections (1) and (2) shall not apply to any specified Honorary Munsif or Bench.

(4) When a notification has been issued under sub-section (3), the District Judge shall assign to the Honorary Munsif or Bench specified therein such civil business cognizable by such Honorary Munsif or Bench as, subject to any general or special orders of the High Court, he thinks fit.

Procedure in  
suits.

9. The Courts of Honorary Munsifs and Benches in the North-Western Provinces and in Oudh shall be deemed to be Civil Courts under the <sup>2</sup>Bengal, North-Western Provinces and Assam Civil Courts Act, XII of 1887, 1887, and the <sup>2</sup>Oudh Civil Courts Act, 1879, respectively, and, save as XIII of 1879. herein excepted, all the provisions of the <sup>1</sup>Code of Civil Procedure shall XIV of 1882. apply to suits tried by Honorary Munsifs and Benches.

Judgments  
and orders of  
Benches.

10. (1) The opinion of the majority of the members of the Bench shall prevail and be deemed to be the decision of the Bench.

(2) Subject to the provisions of sub-section (1), the Local Government may, after consultation with the High Court, make rules respecting the mode of settling differences of opinion which may arise between the members of a Bench.

(3) In making rules under sub-section (2) the Local Government may direct—

(a) that the Bench shall forward the record of the case in which such difference of opinion has arisen to the District Judge for orders;

(b) that the District Judge shall transfer the case for decision of the question in respect of which such difference of opinion has arisen to any Court subordinate to him having jurisdiction, and that the Bench shall dispose of the case in conformity with such decision; or

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> *Supra*, Vol. I.

(c) that the District Judge shall withdraw the case from the Bench and try it himself or transfer it for trial to any Court subordinate to him having jurisdiction.

(4) When any subordinate Court has decided any question under clause (b) of sub-section (3), such subordinate Court shall not try any appeal from any decree or order passed by the Bench in any case in which such question has been so decided.

**11.** (1) When an Honorary Munsif or a Bench has passed a decree in any suit, such Honorary Munsif or Bench shall, except for the purpose of applications under sections 99, 103, 108, 157, 206, 371 and 623 of the *Code of Civil Procedure*, cease to exercise any further jurisdiction in respect of such suit. Procedure in suits after decree.

XIV. of 1882.

(2) For the purposes of execution and proceeding after decree, other than those specified in sub-section (1), the judgments, decrees and orders passed by an Honorary Munsif or Bench shall be deemed respectively to be judgments, decrees and orders of the Munsif's Court, or, where there is no Munsif, of the Subordinate Judge's Court.

(3) Where there are more Munsifs than one having concurrent local jurisdiction, the District Judge shall determine which one of them shall be deemed to be the Munsif for the purposes of sub-section (2):

Provided that the Local Government may, by notification in the Gazette, direct that the provisions of this section shall not apply to the specified Honorary Munsif or Bench.

**12.** The ministerial officers of the Court of an Honorary Munsif or Bench shall be deemed to be ministerial officers of the Court of the District Judge. Appointment and removal of ministerial officers.

**13.** Nothing in the following sections of <sup>2</sup>the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, and the <sup>2</sup>Oudh Civil Courts Act, 1879, shall apply to Honorary Munsifs and Benches, *viz.*— Exception of certain sections of Acts XII of 1887 and XIII of 1879.

XII of 1887.

XIII of 1879.

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Act XIII of 1879.	{	Section 17.—Extent of jurisdiction of Munsif. Section 24.—Power to invest with Small Cause Court jurisdiction. Section 34.—Removal, etc., of ministerial officers of Munsif's Courts.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> *Supra*, Vol. I.

UNITED PROVINCES ACT No. I OF 1897.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[30th May, 1897; 19th August, 1897.]

An Act to provide for the summary realisation of sums due on account of loans granted by the Local Government during the pending famine operations.

WHEREAS it is expedient to provide for the summary realisation of sums due on account of loans of money granted by the Local Government to landholders and cultivators during the pending famine operations; It is hereby enacted as follows:—

Title, extent,  
and com-  
mencement.

1. (1) This Act may be called the <sup>2</sup>North-Western Provinces and Oudh Famine Loans Recovery Act, 1897.

(2) It extends to the territories for the time being administered by the <sup>3</sup>Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

(3) It shall come into force at once.

Recovery of  
loans.

2. Every loan hitherto granted or hereafter to be granted by the Local Government to a landholder or cultivator and purporting to be a loan granted in connection with the pending famine operations, shall, when it becomes due, be recoverable as if it were an arrear of land-revenue due by the person to whom it was granted.

Application  
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3. This Act shall apply only to loans granted during the twelve months preceding the first day of October one thousand eight hundred and ninety-seven.

Saving of  
loans under  
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4. Nothing in this Act shall apply to loans granted under the provisions of the <sup>4</sup>Land Improvement Loans Act, 1883, or the <sup>4</sup>'Agriculturists' Loans Act, 1884.

XIX of 1883.  
XII of 1884.

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1897, Pt. V, dated 3rd April; for Report of the Select Committee, see *ibid*, Extraordinary, dated 28th April, 1897, p. 1; and for Proceedings in Council, see *ibid*, Pt. VI, p. 123, and *ibid*, Extraordinary, dated 28th April, 1897, p. 6.

<sup>2</sup> Read now "the United Provinces Famine Loans Recovery Act, 1897," see the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), s. 28 (2), *infra*.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> Genl. Acts, Vol. III.

UNITED PROVINCES ACT No. II of 1899.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[10th February, 1899; 11th May, 1899.]

An Act to provide for the collection in certain cases of municipal and other taxes by Railway Administrations.

WHEREAS it is expedient to provide for the collection in certain cases of municipal and cantonment taxes by railway administrations; It is hereby enacted as follows:—

1. (1) This Act extends to the territories for the time being administered by the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces, and the Chief Commissioner of Oudh; and

Extent and  
commence-  
ment.

(2) It shall come into force at once.

IX of 1890 2. (1) "Railway administration" shall have the meaning assigned Definitions.  
to that expression in section 3 (6) of the <sup>3</sup>Indian Railways Act, 1890.

XV of 1883.  
XIII of 1889. (2) "municipal tax" and "cantonment tax" mean respectively any tax, toll, duty, fee or other charge duly imposed under the <sup>4</sup>North-Western Provinces and Oudh Municipalities Act, 1883, or the <sup>5</sup>Cantonments Act, 1889.

3. It shall be lawful for a railway administration, with the previous sanction of the Local Government \* \* \* to agree with a municipal board or a cantonment committee to collect municipal or cantonment taxes leviable in respect of persons, animals, carriages or goods conveyed to or from any station on its railway situate within municipal or cantonment limits on such terms as may be agreed upon between such railway administration and municipal board or cantonment committee respectively.

Power to  
make agree-  
ment to  
collect taxes.

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Exemption  
from stamp  
duty.

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Powers to  
recover tax.

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1898, Pt. V, dated 16th July, p. 6.f; for Report of the Select Committee, see *ibid*, dated 12th November, p. 1; and for Proceedings in Council, see *ibid*, Pt. VI, p. 391, and *ibid*, Extraordinary, dated 1st February, 1899, p. 13.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> Genl. Acts, Vol. IV.

<sup>4</sup> See now the United Provinces Municipalities Act, 1916 (U. P. Act 2 of 1916), *infra*.

<sup>5</sup> See now the Cantonments Act, 1910 (15 of 1910), Genl. Acts, Vol. VII.

<sup>6</sup> The words "and of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

which such railway administration is empowered to levy under the Indian Railways Act, 1890.

IX of 1890.

6. All agreements made before the commencement of this Act between any railway administration and any municipal board or cantonment committee, and all municipal taxes and cantonment taxes heretofore collected by any railway administration in pursuance of any such agreement which might have been lawfully made or collected if this Act had been in force at the time, shall be deemed to have been made or collected under the provisions of this Act.

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## THE AGRA TENANCY ACT, 1901.

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UNITED PROVINCES ACT No. II OF 1901.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[24th October, 1901; 19th December, 1901.]

An Act to consolidate and amend the law relating to Agricultural Tenancies and certain other matters in the North-Western Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies and certain other matters in the North-Western Provinces; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title. 1. (1) This Act may be called the <sup>2</sup>North-Western Provinces Tenancy Act, 1901.

Local extent. (2) It extends, in the first instance, to all the territories for the time being administered by the <sup>3</sup>Lieutenant-Governor of the North-Western Provinces, except the areas specified in the First Schedule:

<sup>4</sup>[Provided that] the Local Government may, by notification<sup>5</sup> in the Gazette, extend the whole or any part of this Act to all or any of the areas so excepted:

<sup>1</sup> For Statement of Objects and Reasons, see N.-W. P. and Oudh Gazette, 1900, Pt. V, dated 17th November, p. 76; for Report of the Select Committee, see *ibid*, dated 22nd June, 1901, p. 47; and for Proceedings in Council, see *ibid*, Pt. VI, p. 322, and *ibid*, Pt. V, dated 2nd November, 1901, pp. 192 and 226.

<sup>2</sup> Read now the "Agra Tenancy Act, 1901," see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), s. 28 (2), *infra*.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> These words were substituted for the words and figures "but, subject to the provisions of Bengal Regulation 7 of 1828" by s. 3 of the Pargana of Kaswar Raja Act, 1915, (U. P. Act 6 of 1915), *infra*.

<sup>5</sup> For notification extending the Act or portions of it, see U. P. Local Rules and Orders.

U. P. Act VI of 1915. <sup>1</sup>[Provided also that no provision of this Act which is inconsistent with the provisions of the <sup>2</sup>Pargana of Kaswar Raja Act, 1915, shall apply to the Pargana of Kaswar Raja in the district of Benares] and

(3) It shall come into force on the first day of January, 1902.

Commence-  
ment

2. (1) The enactments mentioned in the Second Schedule are repealed to the extent specified in the third column thereof.

(2) When this Act or any portion thereof is extended to any of the areas excepted in the First Schedule, so much of any Act or Regulation in force therein as is inconsistent with this Act, or the portion thereof so extended, as the case may be, shall be thereby repealed.

(3) The repeal of any enactment by this Act shall not legalise any practice which immediately before the passing of such enactment was illegal, and shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

U. P. Act  
I of 1887.

(4) All rules and appointments made, notifications and proclamations issued, authorities and powers conferred, leases granted, rents fixed, rights acquired, liabilities incurred, and places appointed under the enactments hereby repealed shall, so far as may be, and without prejudice to the provisions of <sup>3</sup>section 11 of the North-Western Provinces and Oudh General Clauses Act, 1887, be deemed to have been made, issued, conferred, granted, fixed, acquired, incurred and appointed hereunder.

(5) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act, or to the corresponding portion thereof.

3. (1) Notwithstanding anything contained in section 2, nothing in any lease or agreement made between a landholder and a tenant on or after the first day of April, 1900, shall take away or limit any right of the tenant as conferred or recognised by this Act. Restrictions on leases and agreements relating to tenancies.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), nothing in any lease or agreement made between a landholder and a tenant on or after the first day of April, 1900—

(a) shall prevent the tenant from acquiring a right of occupancy in land in accordance with the provisions of this Act;

(b) shall take away or limit the right of the tenant to make improvements and to claim compensation for the same in accordance with the provisions of this Act;

<sup>1</sup> This Proviso was inserted by s. 3 of the Pargana of Kaswar Raja Act, 1915 (U. P. Act 6 of 1915), *infra*.

<sup>2</sup> *Infra*.

<sup>3</sup> See now s. 6 of the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), *infra*.

- (c) shall entitle the landholder to eject the tenant otherwise than in accordance with the provisions of this Act;
- (d) shall take away the right of the tenant to sub-let in accordance with the provisions of this Act;
- (e) shall empower the landholder to distrain otherwise than in accordance with the provisions of this Act.

Interpretation  
clause.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) all words and expressions used to denote the possessor of any right, title, or interest in land, whether the same be proprietary or otherwise, shall be deemed to include the predecessors and successors in right, title or interest of such person:

(2) "land" means land which is let or held for agricultural purposes:

(3) "rent" means whatever is, in cash or kind, to be paid or delivered by a tenant for land held by him, or on account of groves, tanks, rights of pasturage, or of gathering produce, forest-rights, fisheries, the use of water for irrigation, or the like:

(4) "pay," with its grammatical variations and cognate expressions when used with reference to rent, includes "deliver" with its grammatical variations and cognate expressions:

(5) "landholder" means the person to whom, and "tenant" the person by whom, rent is, or but for a contract, express or implied, would be payable;

and "tenant" includes a thekadar, but does not include a mortgagee of proprietary rights, or a rent-free grantee:

(6) "thekadár" includes a farmer, or other lessee of proprietary rights:

(7) "sub-tenant" means a tenant who holds land from a person possessing therein only the interest of a tenant, other than a permanent tenureholder, or a thekadár:

(8) "rent-free grantee" includes a person who holds land on service tenure:

(9) "holding" means a parcel or parcels of land held under one tenure or one lease or engagement:

(10) "agricultural year" means the year commencing on the first day of July and ending on the thirtieth day of June:

(11) "registered" includes attested under the provisions of section 97:

(12) "improvement" means, with reference to a tenant's holding, any work which adds materially to the letting value of the holding, which is suitable to the holding and consistent with the purpose for

which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is after execution made directly beneficial to it: and, subject to the foregoing provisions, includes—

- (a) the construction of tanks, wells, water channels, and other works for the storage, supply, or distribution of water for agricultural purposes;
- (b) the construction of works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water;
- (c) the planting of trees, and the reclaiming, clearing, enclosing, levelling, or terracing of land;
- (d) the erection of buildings on the holding or in its immediate vicinity, elsewhere than on the village site, required for the convenient or profitable use or occupation of the holding; and
- (e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto:

but does not include—

- (f) such temporary wells, water channels, embankments, levelings, enclosures, or other works, or petty alterations or repairs to such works, as are made by tenants in the ordinary course of cultivation; or
- (g) unless made with the written consent of the proprietor of the land, any work that substantially diminishes the value of any other land belonging to the proprietor:

(13) "Board," "Revenue Court," "Revenue officer," "Settlement officer," "Assistant Collector," "Tahsildar," "revenue," "mahal," "sir," "lambardar," and "minor" have the same meaning respectively as in the <sup>1</sup>North-Western Provinces and Oudh Land-revenue Act, 1901.

U. P. Act  
III of 1901.

XIV of 1882.

5. Save as otherwise expressly provided by this Act, and save as otherwise provided by the <sup>2</sup>Code of Civil Procedure in the case of proceedings governed by that Code, anything which is by this Act required or permitted to be done by a landholder, may be done by an agent of the landholder authorised by him in this behalf; and process served on, or notice given to, such agent shall be as effectual for all purposes as if the same had been served on, or given to, the landholder in person; and all the provisions of this Act relating to the service of process on, or the giving of notice to, a party shall be applicable to the service of process on, or the giving of notice to, such agent.

Power of  
landholders  
to act through  
agent.

<sup>1</sup> Read now the "United Provinces Land-revenue Act, 1901" (*infra*). See the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), *infra*.

<sup>2</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

## CHAPTER II.

## CLASSES OF TENANTS.

Classes of  
tenants en-  
umerated.

6. There shall be, for the purposes of this Act, the following classes of tenants, namely,—

- (a) permanent tenure-holders,
- (b) fixed-rate tenants,
- (c) ex-proprietary tenants,
- (d) occupancy tenants, and
- (e) non-occupancy tenants.

*Permanent Tenure-holders and Fixed-rate Tenants.*

Permanent  
tenure-hold-  
ers.

7. (1) When any permanent and transferable interest in land in a district or portion of a district which is permanently settled has been held, otherwise than under a terminable lease, by any person intermediate between the proprietor of the mahal and the occupants, from the time of the permanent settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.

(2) Such person shall be called a permanent tenure-holder.

Fixed-rate  
tenants.

8. (1) When any land in a district or portion of a district which is permanently settled has been held by a tenant from the time of the permanent settlement at the same rate of rent, such tenant shall have a right of occupancy at that rate.

(2) Such tenant shall be called a fixed-rate tenant.

Presumption  
from entry at  
the last  
revision of  
records  
before this  
Act.

9. Every entry at the last revision of records before the commencement of this Act recording a person as a permanent tenure-holder, or a fixed-rate tenant, or otherwise, shall, in the absence of a judicial decision to the contrary in proceedings instituted before the commencement of this Act, be conclusive proof that such person is a permanent tenure-holder, or a fixed-rate tenant, or not, as the case may be.

*Ex-proprietary Tenants.*

Ex-proprie-  
tary tenants.

10. (1) Every proprietor, whose proprietary rights in a mahal or in any portion thereof, whether in any share therein, or in any specific area thereof, are transferred, on or after the commencement of this Act,

either by sale in execution of a decree or order of a Civil or Revenue Court, or by voluntary alienation, otherwise than by gift or by exchange between co-sharers in the mahal,

shall become a tenant with a right of occupancy in his sir land, and in the land which he has cultivated continuously for twelve years at the date of the transfer, and shall be entitled to hold the same at a rent which

shall be four annas in the rupee less than the rate generally payable by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

(2) A usufructuary mortgage shall be deemed to be a transfer within the meaning of this section.

(3) If a part only of the share of a proprietor in a mahal or in any portion thereof is so transferred, such proprietor shall become a tenant with a right of occupancy in so much of his *sir* land, and of the land which he has cultivated continuously for twelve years at the date of the transfer, as appertains or corresponds to such part of his share.

(4) Every such tenant, and every tenant having the same rights under the corresponding provisions of <sup>1</sup>Act XVIII of 1873, <sup>2</sup>Act XII of 1881, or any other enactment for the time being in force, shall be called an ex-proprietary tenant, and, save as otherwise expressly provided, shall have all the rights and be subject to all the liabilities conferred and imposed upon occupancy tenants by this Act.

(5) The land in which such occupancy right has been created shall be specified and the rent payable therefor shall be fixed by the Collector under section 36 of the <sup>3</sup>North-Western Provinces and Oudh Land-revenue Act, 1901.

U. P. Act  
III of 1901.

(6) Nothing in this section shall confer a right of occupancy in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

#### *Occupancy Tenants.*

II. A tenant who has held the same land continuously for a period of twelve years shall have a right of occupancy in such land: Acquisition  
of right of  
occupancy.

Provided that no tenant shall acquire under this section a right of occupancy in any land which he holds—

(a) as a lessee holding under a registered lease for a term of not less than seven years; or

(b) as a thekadár; or

(c) as a sub-tenant:

and no right of occupancy shall be acquired—

(d) in *sir* land; or

(e) in any land which is, or forms part of, a military encamping-ground or other area acquired or held for a public purpose, or a work of public utility:

Provided, also, that in computing the period of twelve years, any time for which the land has been sub-let, or otherwise transferred, in

<sup>1</sup> The N.-W. P. Rent Act (18 of 1873) was repealed by the N.-W. P. Rent Act, 1881 (12 of 1881). The latter was repealed by this Act.

<sup>2</sup> Act XII of 1881 was repealed by this Act.

<sup>3</sup> Read now the "United Provinces Land-revenue Act, 1901" (*infra*). See the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), *infra*.

contravention of the provisions of this Act, shall be excluded, but shall not be deemed to break the continuity of the tenant's-holding.

*Illustrations.*

(a) A, a non-occupancy tenant, has cultivated the same land continuously for five years, sub-let it for a term of two years, and then again cultivated it continuously for five years. A has not acquired a right of occupancy in the land; but if he cultivates the land continuously for two years more, otherwise than in any of the capacities specified in clauses (a) to (c) of the first proviso to this section, he will then acquire a right of occupancy in the land.

(b) A, a non-occupancy tenant, has cultivated the same land continuously for four years, lawfully sub-let it for one year; then again cultivated it for two years, then, in contravention of the provisions of sub-section (d) of section 25, again sub-let it for one year, then again cultivated it for four years. A must cultivate the land for another year in order to acquire a right of occupancy.

Time from  
which period  
of twelve  
years begins  
to run.

**12.** For the purposes of section 11 it is immaterial whether the period of twelve years began before or after the commencement of this Act:

Provided that when previous to the commencement of this Act a tenant was holding, or at the commencement of this Act is holding, under a written lease for a definite term,

or when, in any case, a tenant is holding as specified in clause (a), (b) or (c) of section 11,

the period of twelve years shall begin to run from the expiry of such term, or when he ceases to so hold.

Continuous  
"holding" ex-  
plained.

**13.** For the purposes of section 11 a tenant shall be deemed to have held continuously—

(a) though he may have been wrongfully dispossessed by his landholder, or have been ejected under a decree or order of a Court, which has been finally set aside in appeal or otherwise,

if he has been reinstated in the land, or otherwise regained possession thereof; or

(b) though he may have been ejected from the land under section 40 of Act XII of 1881, or clause (a) or (b) of section 58 of this Act,

if within a year from the date of such ejectment he has been re-admitted by his landholder to the tenancy of the land from which he has been so ejected; or

(c) though he may have surrendered, the land upon agreement, express or implied, to take other land,

if within a year from the date of such surrender not having received such other land, he has been re-admitted by his landholder to the tenancy of the land so surrendered; or

(d) though he may have lost possession of the land,

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\* The N. W. P. Rent Act, 1881, was repealed by this Act.



if he has been admitted to the tenancy of other land under the circumstances specified in the next following section.

14. (1) If a tenant has lost possession of any land, whether—

“Same land”  
explained.

- (a) by wrongful dispossession therefrom; or
- (b) by a decree or order of a Court, which has been finally set aside in appeal or otherwise; or
- (c) by ejectment under section 40 of <sup>1</sup>Act XII of 1881, or clause (a) or (b) of section 58 of this Act; or
- (d) by surrender thereof upon agreement, express or implied, to take other land;

and within a year from the date of such loss of possession has been admitted by his landholder to the tenancy of any other land, whether in the same village or not,

such other land shall, if the letting value thereof does not exceed that of the land of which the tenant has so lost possession, be deemed to have been received in exchange therefor, and for the purposes of section 11 to be the same land as the land which he held before such exchange.

(2) If the letting value of the land to the tenancy of which the tenant has been so admitted by the landholder exceeds that of the land of which the tenant has lost possession, an area of the former land having a letting value equal to that of the latter shall be deemed to have been received in exchange therefor, and to the same land for the purposes of section 11.

(3) If any question arises under sub-section (2) as to the specific area in which a right of occupancy has accrued, the Court shall demarcate an area, as approximately equal in letting value as may be to the land previously held by the tenant, and declare such area to be the land received in exchange therefor:

Provided that, if there has been more than one such loss of possession of land and admission to the tenancy of other land during the period of twelve years, it shall be sufficient if the Court demarcates out of the aggregate area of the land to the tenancy of which the tenant has been admitted an area, as compact as possible, and as approximately equal in letting value as may be to the aggregate area of the land previously held by him.

(4) When an area is demarcated under sub-section (3), the Court shall, if necessary, distribute the rent of the holding accordingly.

#### *Illustrations.*

- (a) A tenant lost possession of field A, in the manner specified in clause (a), (b), (c) or (d) of section 14 (1), and was within a year admitted to the tenancy of field X, and is holding the same at the time of the inquiry into the tenant's claim to a right of occupancy. If the letting value of X does not exceed the letting value of A, X shall be deemed to have been received in exchange for A, and for the purpose of section 11 to be the same land as A.

<sup>1</sup> The N.-W. P. Rent Act, 1881, was repealed by this Act.

- (b) If in the circumstances stated in illustration (a) the letting value of field X exceeds that of field A, an area of X having a letting value equal to that of A shall be deemed to have been received in exchange for A, and to be the same land as A, and the Court shall demarcate a specific area of X equal in letting value to A, and the tenant shall have a right of occupancy in such area.
- (c) A tenant lost possession of field A, in the manner specified in section 14 (f), and within a year was admitted to the tenancy of field X; he subsequently so lost possession of X and within a year was admitted to the tenancy of Y. The Court shall demarcate an area from Y equal in letting value to A, or X, whichever has the lesser letting value.
- (d) A tenant lost possession at various times of fields A, B and C, in the manner specified in clause (a), (b), (c) or (d) of section 14 (f), and within one year of losing each field was admitted to the tenancy of fields, X, Y and Z, respectively, the letting values of which are not less than those of A, B and C, respectively, and is holding X, Y and Z at the time of the inquiry. It shall be sufficient if the Court demarcates out of fields X, Y and Z an area as compact as possible and as approximately equal in letting value as may be to the aggregate area of fields A, B and C; and it shall not be necessary to demarcate separate areas out of X, Y and Z equal in letting value to A, B and C, respectively.

Retrospective effect of certain provisions barred before July 1900.

**15.** Notwithstanding anything hereinbefore contained, if the period of twelve years began before the first day of July, 1900, nothing in clauses (b), (c) and (d) of section 13, or in section 14, shall be deemed to apply before that date.

Occupancy tenants.

**16.** Every tenant having a right of occupancy under section 11, or under the corresponding provisions of <sup>1</sup>Act X of 1859, <sup>2</sup>Act XVIII of 1873, or <sup>3</sup>Act XII of 1881, or under any other enactment for the time being in force, shall be called an occupancy tenant, and shall have all the rights and be subject to all the liabilities conferred and imposed on occupancy tenants by this Act.

Right in changed holdings.

**17.** Notwithstanding anything in clause (d) of section 11, a tenant who has a right of occupancy in any land shall have a right of occupancy in any other land which he may receive from the proprietor in exchange therefor, and shall thereupon cease to have a right of occupancy in the land so given by him in exchange.

Extinction of occupancy right.

**18.** A right of occupancy shall be extinguished—

- (a) when the tenant dies leaving no heir entitled under this Act to inherit it;
- (b) in land from which the tenant has been ejected in execution of a decree or order of a Court;
- (c) in a holding, which the tenant has abandoned, or surrendered after service upon the landholder of a notice of surrender;
- (d) in land which has been acquired for a public purpose, or a work of public utility.

<sup>1</sup> The Bengal Rent Act, 1859, was repealed by the N.-W. P. Rent Act of 1873, so far as it affected the Province of Agra.

<sup>2</sup> Repealed by the N.-W. P. Rent Act, 1881 (12 of 1881) which has been repealed by this Act.

<sup>3</sup> Repealed by this Act.

*Non-occupancy Tenants.*

19. All tenants other than permanent tenure-holders, fixed-rate tenants, ex-proprietary tenants, or occupancy tenants, are non-occupancy tenants.

## CHAPTER III.

## DEVOLUTION, TRANSFER AND DIVISION OF TENANCIES.

*Succession to, and transfer of, Tenancies.*

20. (1) The interest of a permanent tenure-holder or a fixed-rate tenant is a heritable and transferable interest.

Rights of  
transfer and  
succession.

(2) The interest of an ex-proprietary tenant, an occupancy tenant, or a non-occupancy tenant other than a thekadár, is, subject to the provisions of this Act, heritable, but is not transferable in execution of a decree of a Civil or Revenue Court, or otherwise than by voluntary transfer between persons in favour of whom as co-sharers in the tenancy such right originally arose or who have become by succession co-sharers therein.

(3) The interest of a thekadár is, subject to the terms of his lease, heritable, but not transferable.

21. Where the interest of a tenant is not transferable, he shall not be competent to transfer his holding or any portion thereof, otherwise than by sub-lease as hereinafter provided.

Rights in  
non-transfer-  
able tenan-  
cies.

22. When an ex-proprietary tenant, an occupancy tenant, or a non-occupancy tenant (other than a thekadár) dies, his interest in the holding shall devolve as follows:—

Succession to  
tenancies.

- (a) on his male lineal descendants in the male line of descent; and
- (b) failing such descendants, on his widow till her death or re-marriage; and
- (c) failing such descendants and widow, on his brother, being a son of the same father as the deceased;

and failing any such heirs as above mentioned,

- (d) on his daughter's son; and
- (e) failing such daughter's son, on the nearest collateral male relative in the male line of descent:

Provided that no such daughter's son or collateral relative shall be entitled to inherit who did not share in the cultivation of the holding at the time of the tenant's death.

*Sub-leases.*

Saving of  
leases by  
thekadárs.

**23.** Nothing in sections 24 to 30 shall apply to leases by thekadárs.

Right to  
sub-let.

**24.** A tenant may sub-let the whole or any portion of his holding, subject to the restrictions imposed by this Act:

Provided that no such sub-letting shall in any way relieve the tenant of any of his liabilities to his landholder.

Sub-leases by  
ex-proprie-  
tary, occu-  
pancy and  
non-occupan-  
cy tenants.

**25.** (1) No ex-proprietary tenant or occupancy tenant shall sub-let for any term exceeding five years, and shall not again sub-let the whole or any portion of his holding within two years from the expiry of any such sub-lease.

(2) If the sub-lease is for a term exceeding one year, or from year to year, it shall be made by registered instrument only.

(3) No non-occupancy tenant shall sub-let for a term exceeding one year, and shall not again sub-let within three years from the expiry of any such sub-lease.

(4) Nothing in this section shall apply to the holding of a person in the military service of Government, a female, a minor, a lunatic or an idiot.

Sub-leases by  
sub-tenants.

**26.** No sub-tenant shall sub-let otherwise than with the written consent of his landholder.

Successor to  
sub-lessor  
bound by  
sub-lease.

**27.** When a tenant has sub-let, the successor in interest to such tenant shall be bound by the terms of the sub-lease, in so far as they are consistent with the terms of his own lease and the provisions of this Act.

Rights on  
extinction of  
sub-lessor's  
interest when  
sub-lease  
before or in  
accordance  
with Act.

**28.** When a tenant has sub-let before the commencement of this Act, or subsequently thereto has sub-let in accordance with the provisions of this Act, and the interest of such tenant is extinguished before the expiry of the sub-lease, all covenants binding and enforceable as between the tenant and the sub-tenant shall be binding and enforceable as between the tenant's landholder and the sub-tenant:

Provided that, if the rent payable by the sub-tenant is less than that hitherto payable by the tenant, the sub-tenant may, at his option, either vacate the holding or portion thereof so sub-let, or continue in possession for the remainder of the term of the sub-lease, subject to the liability of paying rent at the rate hitherto payable by the tenant:

Provided, also, that the interest of the sub-tenant shall be extinguished if the tenant is ejected on any of the grounds specified in section 57.

Rights on  
extinction of  
sub-lessor's  
interest when  
sub-lease not  
in accordance  
with Act.

**29.** When a tenant has sub-let otherwise than in accordance with the provisions of this Act, and the interest of such tenant is extinguished before the expiry of the sub-lease,

all covenants binding and enforceable as between the tenant and the sub-tenant shall, at the option of the tenant's landholder, be binding and enforceable as between the landholder and the sub-tenant.

**30.** When the interest of a sub-tenant is extinguished with the extinction of the interest of the tenant from whom he holds, he shall vacate his holding accordingly, but shall have in respect of the removal of standing crops and other products of the earth the same rights as the tenant would have upon ejection in accordance with the provisions of this Act.

Extinction of sub-leases.

### *Remedies against Illegal Sub-leases and other Transfers*

**31.** (1) Every sub-lease or other transfer, and every agreement to sub-let or otherwise transfer, made by a tenant in contravention of the provisions of this Act, shall be voidable as hereinafter provided.

Remedies against illegal sub-leases and other transfers.

(2) When a tenant has made any such sub-lease or other transfer, the landholder may sue for the cancellation of the same, or for the ejection of the tenant and the sub-lessee or other transferee, or for both.

(3) When a tenant has made any such agreement to sub-let or otherwise transfer, the landholder may sue for the cancellation of the same.

(4) In every such suit the sub-lessee or other transferee, or the person entering into the agreement for the sub-lease or other transfer, shall be made a party to the suit.

### *Division of Tenancies.*

**32.** (1) No division of a holding or distribution of the rent payable in respect thereof, made by the co-sharers therein, shall be binding on the landholder, unless it is made with his consent.

Division of tenancies and distribution of rent unenforceable.

(2) No suit or other proceeding for the division of a holding or distribution of the rent thereof shall be entertained in any Civil or Revenue Court.

## CHAPTER IV.

### DETERMINATION, ENHANCEMENT AND ABATEMENT OF RENT.

#### *General.*

**33.** A tenant on being admitted to the occupation of land is liable to pay such rent as may be agreed upon between him and his landholder.

Initial rent of tenant.

**34.** A person occupying land, without the consent of the landholder, shall be liable for the rent of that land at the rate payable in the previous year, or, if rent was not payable in the previous year, at such rate as the Court may determine to be fair and equitable, but he shall not be deemed to hold the land within the meaning of section 11 until he begins to pay rent therefor.

Rent payable in absence of agreement.

Presumption  
as to rent.

**35.** The rent or rate of rent payable by a tenant shall be presumed to be the rent or rate of rent previously payable by him until a registered agreement, or a decree or order of a Court, is proved varying the same.

Compensation  
for rent  
exactd  
in excess.

**36.** A tenant from whom any sum or produce is exacted by his landholder in excess of the amount recoverable from him as an arrear of rent under this Act, or any other enactment for the time being in force, shall be entitled to recover from the landholder such compensation, not exceeding double the amount, or double the value of the produce, so exacted, as the Court thinks fit to decree, in addition to the amount or value of the produce so exacted.

Consideration  
of caste and  
class of tenant  
in fixing rent.

**37.** When a Court has to determine the rent of a tenant, if it is proved that by local custom or practice—

(a) caste is taken into account in determining the rent payable by tenants, or

(b) any class of persons hold land on favourable rates of rent, the rent shall be fixed with reference to such custom or practice, but in no case at an amount less than the revenue payable in respect of his holding, with an addition of twenty per cent thereon.

Suits for en-  
hancement or  
abatement  
when to be  
filed.

**38.** All suits for enhancement or abatement of rent shall be instituted between the thirtieth day of June and the first day of October.

Decrees in  
such suits  
from when  
to have  
effect.

**39.** Every decree for enhancement or abatement shall take effect from the first day of July next after the date of such decree, unless for some reason, to be recorded, the Court thinks fit to direct that it shall take effect from some earlier date.

#### *Fixed-rate Tenants.*

Enhancement  
and abate-  
ment of rent  
of fixed-rate  
tenants.

**40. (1)** A landholder may sue for enhancement of the rent of a fixed-rate tenant only on the ground that the area of the land in such tenant's holding has been increased by alluvion, or by the tenant's encroachments.

(2) A fixed-rate tenant may sue for abatement of his rent only on the ground that the area of the land in his holding has been diminished by diluvion, or by the taking up of land for a public purpose, or a work of public utility.

#### *Ex-proprietary and Occupancy Tenants.*

Regulation of  
enhance-  
ments and  
abatements.

**41. (1)** The rent of an ex-proprietary or occupancy tenant shall be liable to enhancement or abatement only—

(a) by registered agreement, or

(b) by decree or order of a Revenue Court;

and, when so enhanced or abated, shall not again be liable to enhancement or abatement until or unless—

- (c) ten years or such longer period as may have been agreed upon, decreed or ordered, has elapsed, or
- (d) the assessment of the mahal has, before confirmation, been revised by order of the Local Government, or
- (e) the period of the settlement of the local area in which the mahal is situated has come to an end,

except—

- (f) on the grounds specified in clauses (b), (c), (d) and (e) of section 42, or clauses (c), (d), (f) and (g) of section 43, as the case may be; or
- (g) as provided by sections 11 and 12 of the <sup>1</sup>Northern India Canal and Drainage Act, 1873.

VIII of 1873.

(2) Where the rent has been varied merely on the ground of an increase or decrease in area under clause (c) or clause (e) of section 42, or clause (d) or clause (g) of section 43, such variation shall not be considered in computing the period of ten years.

(3) The term for which the rent of an ex-proprietary or occupancy tenant is fixed by decree or order of a Revenue Court shall not be less than ten years, but no term in excess of ten years shall be so fixed except upon agreement by the parties.

**42.** (1) The landholder of an ex-proprietary tenant may sue for enhancement of rent on one or more of the following grounds, and on no others:—

Enhancement and abatement of rent of ex-proprietary tenants.

- (a) that the rate of the rent paid by such tenant is more than four annas in the rupee less than the rate generally payable by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood; or
- (b) that the productive powers of the land held by the tenant have been increased by an improvement effected during the currency of the present rent, otherwise than by the agency or at the expense of the tenant; or
- (c) that the area of the tenant's holding has been increased by alluvion or by the tenant's encroachments.

(2) Any such tenant may sue for abatement of rent on one or both of the following grounds, and on no others:—

- (d) that the productive powers of the land held by the tenant have been decreased by any cause beyond his control during the currency of the present rent; or

- (c) that the area of his holding has been decreased by diluvion, or by encroachments, or by the taking up of land for a public purpose, or a work of public utility.

Enhancement  
and abate-  
ment of rent  
of occupancy  
tenants.

**43.** (1) The landholder of an occupancy tenant may sue for enhancement of rent on one or more of the following grounds, and on no others:—

- (a) that the rate of the rent paid by such tenant is below the prevailing rate paid by occupancy tenants for land of similar quality and with similar advantages; or
  - (b) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent; or
  - (c) that the productive powers of the land held by the tenant have been increased by an improvement effected during the currency of the present rent, otherwise than by the agency or at the expense of the tenant; or
  - (d) that the area of the tenant's holding has been increased by alluvion, or by the tenant's encroachments.
- (2) Any such tenant may sue for abatement of rent on one or more of the following grounds, and on no others:—

- (e) that there has been a fall in the average local prices of staple foodcrops during the currency of the present rent; or
- (f) that the productive powers of the land held by the tenant have been decreased by any cause beyond his control during the currency of the present rent; or
- (g) that the area of his holding has been decreased by diluvion, or by encroachments or by the taking up of land for a public purpose, or a work of public utility.

Selection of  
land for com-  
parison.

**44.** The land regarding which a suit for enhancement or abatement of rent has been instituted under section 43 shall, for the purposes of clause (a) of that section, be compared—

- (a) when the local area within which the land is situated has been divided by the Settlement Officer into circles of like capacity and soil, with land of similar quality and with similar advantages, situated in the same circle;
- (b) when the said local area has not been so divided by the Settlement Officer, with land of similar quality and with similar advantages in the same pargana, or in a pargana immediately adjacent.

Joinder of  
tenant in  
suits relating  
to enhance-  
ment or  
abatement  
of rent.

**45.** (1) A suit for enhancement or abatement of rent may be instituted against or by any number of ex-proprietary or occupancy tenants collectively:

Provided that all such tenants are tenants to the same landholder and all the holdings in respect of which the suit is instituted are situated in the same mahal.



(2) No decree shall be passed in any such suit affecting the interests of any person unless the Court is satisfied that he has had an opportunity of appearing and being heard.

(3) The decree shall specify the extent to which each of the tenants is affected thereby.

46. In decreeing an enhancement of the rent of an ex-proprietary or occupancy tenant, if the enhancement is not less than one-fourth of the rent, and if the Court considers that the immediate enforcement of the decree to its full extent will be attended with hardship to the tenant, the Court may direct that the enhancement shall take effect by yearly increments extending over any number of years not exceeding five. Progressive  
enhance-  
ments.

#### *Non-occupancy Tenants.*

47. The rent of a non-occupancy tenant, not being a tenant in sir land, a sub-tenant or thekadār, may be enhanced by agreement between such tenant and his landholder on the following conditions:— Enhance-  
ment of rent  
of non-occu-  
pancy tenant  
by agreement

- (a) the agreement for the payment of enhanced rent shall be by registered instrument; and
- (b) the tenant shall be entitled to hold the land at the enhanced rent for a term of not less than five years.

48. Notwithstanding anything contained in clause (b) of section 47, a suit shall lie for the enhancement or abatement of the rent of a non-occupancy tenant— Enhance-  
ment and  
abatement of  
rent of non-  
occupancy  
tenant by  
suit.

- (a) on the grounds specified in clauses (d) and (g) of section 43 in respect of the enhancement or abatement of the rent of an occupancy tenant; or
- (b) as provided by sections 11 and 12 of the <sup>1</sup>Northern India Canal and Drainage Act, 1873.

VIII of 1873.

#### *Exceptional Provisions.*

49. (1) Notwithstanding anything hereinbefore contained, when any lease is granted, or any agreement is entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, and such term expires, such lease or agreement shall— Variation of  
rent under  
lease for  
period exceed-  
ing term of  
landholders  
engagement.

- (a) when, on the expiration of such term, the revenue payable in respect of such land is enhanced—be voidable at the option of the landholder, unless the tenant agrees to pay such rent as the Collector may, at the suit of the landholder, determine to be fair and equitable; and

- (b) when such revenue is, on the expiration of such term, reduced – be voidable at the option of the tenant, unless the landholder agrees to accept such rent as the Collector may, at the suit of the tenant, determine to be fair and equitable.

(2) When the local area within which the land is situated is under settlement, the Settlement Officer shall exercise the powers of the Collector under this section.

Remission of  
rent by Court  
decreeing  
arrears.

50. (1) Notwithstanding anything hereinbefore contained, if it appears to a Court making a decree in a suit for arrears of rent that the area of the holding was so decreased by diluvion or otherwise, or that the produce thereof was so diminished by drought, hail, deposit of sand or other like calamity during the period for which the arrear is claimed, that the full amount of rent payable by the tenant for that period cannot be equitably decreed, the Court may, with the previous sanction of the Collector allow such remission from the rent payable by the tenant for that period as may appear to it to be just.

(2) An order of the Collector under sub-section (1), giving or refusing sanction to a remission of rent, shall not be questioned in any Civil or Revenue Court.

(3) Nothing in this section shall be deemed to authorise any remission in the rent payable by a permanent tenure-holder, fixed-rate tenant, or thekadár.

(4) No remission made under the provisions of this section shall be deemed to vary the rent payable by the tenant otherwise than for the period in respect of which such remission was made.

(5) When remission of rent in accordance with the provisions of this section materially diminishes the assets of any mahal or patti, the revenue authorities shall take into consideration any claim made by the proprietor for a remission of the revenue payable in respect of such mahal or patti, and shall pass such order thereon as the circumstances of the case may require.

(6) The provisions of this section shall not apply to remissions of rent claimed in alluvial tracts under any local custom providing for such remissions in holdings, the culturable area of which has been decreased by diluvion, deposit of sand, or the like causes.

Power to  
remit or sus-  
pend pay-  
ment of rent  
when pay-  
ment of  
revenue re-  
mitted or sus-  
pended.

51. (1) When for any cause the Local Government remits or suspends for any period the payment of the whole or any part of the revenue payable in respect of any land, a Collector or Assistant Collector of the first class empowered by the Local Government in this behalf may order that the rents of the tenants holding such land or any portion thereof, mediately or immediately from the proprietor, shall be remitted or suspended for the period of such remission or suspension of payment of revenue, as the case

may be, to an amount which shall be equal to double the amount of the revenue the payment of which has been so remitted or suspended, or shall bear the same proportion to the whole of the rent payable, in respect of the land as the revenue of which the payment has been so remitted or suspended bears to the whole of the revenue payable in respect of such land.

(2) An order passed under sub-section (1) shall not be questioned in any Civil or Revenue Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(4) When the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If a proprietor or other landholder collects any rent of which the payment has been remitted, or before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the revenue or rent, as the case may be, remitted or suspended in his favour, shall become immediately payable by him.

52. (1) The Local Government, on being satisfied that the exercise of the powers hereinafter mentioned is necessary within any specified area in the interests of public order, may <sup>Investment of officer with power to settle, reduce and commute rents.</sup> \* \* \* by notification in the Gazette, invest a Collector or Assistant Collector of the first class with the following powers, or any of them, within such area, namely:—

- (a) power to settle all rents;
- (b) power, when settling rents, to reduce rents if, in the opinion of such officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable;
- (c) power to commute produce rents into money rents.

(2) An officer invested with powers under this section may be invested with them either generally or with reference to specified cases or classes of cases, and shall have all the powers of a Record Officer under Chapter IV of the <sup>2</sup>North-Western Provinces and Oudh Land-revenue Act, 1901.

(3) Nothing in this section shall apply to the rents payable by permanent tenure-holders or fixed-rate tenants.

(4) Every order settling or commuting rent under this section shall take effect prospectively from such date as the officer passing the same may direct.

U. P. Act  
III of 1901.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>2</sup> *Infra.* Read now United Provinces Land-revenue Act, 1901, see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), *infra*.

(5) An appeal shall lie against an order under this section as hereinafter provided; but otherwise no order under this section shall be questioned in any Civil or Revenue Court.

Enhancement or abatement of settled rents.

53. When the rent of a holding is settled or commuted under the last preceding section, it shall not—

- (a) in the case of an ex-proprietary or occupancy holding, be liable to enhancement or abatement, except on the grounds specified in clauses (f) and (g) of section 41, for ten years from the date on which the rent settled or commuted takes effect; and
- (b) in the case of a non-occupancy holding, other than the holding of a thekadár, and subject to the provisions of this Act in respect of sub-leases, be liable to enhancement or abatement, except on the grounds specified in section 48, for seven years from the date on which the rent so settled or commuted takes effect;

unless the period of the settlement of the mahal in which the holding is situated shall sooner come to an end.

Effect of order respecting non-occupancy tenant.

54. The order of an officer so settling or commuting the rent of a non-occupancy tenant shall, except in the case of a tenant in sir land, a sub-tenant or a thekadár, have the same force and effect as a registered lease for seven years under the provisions of section 11.

### *Rights on Change of holding or Variation of Rent.*

Rights on change of holding or variation of rent.

55. When, under the provisions of this Act, any tenant is declared entitled to hold for a specified period, and when during such period the holding of such tenant is changed, or the rent payable in respect thereof is varied, such tenant shall be entitled to hold under the substituted contract for the full period for which he was originally declared entitled to hold under the provisions of this Act, or for such longer period as the parties thereto may agree upon.

## CHAPTER V.

### EJECTMENT, SURRENDER AND ABANDONMENT.

#### *Grounds of Ejectment.*

Ejectment to be according to law.

56. No tenant shall be ejected otherwise than in accordance with the provisions of this Act.

Grounds of ejectment.

57. A tenant, not being a permanent tenure-holder, shall be liable to ejectment from his holding on one or more of the following grounds, namely:—

- (a) on the ground that a decree against him or his predecessor in interest for arrears of rent in respect of that holding on account

- . of any agricultural year remains unsatisfied at the expiry of that year;
- (b) on the ground of any act or omission detrimental to the land in that holding, or inconsistent with the purpose for which it was let;
- (c) on the ground that he or any person holding from him has broken a condition, not inconsistent with the provisions of this Act, and on breach of which he is by special contract with his landholder liable to be ejected;
- (d) on the ground that he has sub-let or otherwise transferred the whole or any portion of that holding in contravention of the provisions of this Act;

Provided that nothing in clause (d) shall apply to a fixed-rate tenant.

58. A non-occupancy tenant shall be liable to ejectment on one or more of the following grounds, in addition to the grounds specified in the last preceding section, namely:—

- (a) on the ground that he holds only as a tenant from year to year;
- (b) on the ground that he holds under a lease the term of which has expired, or will expire, at or before the end of the current agricultural year;
- (c) on the ground that he has refused to accept a lease containing the particulars of his holding for the time being in accordance with the provisions of section 96 and give a counterpart thereof.

Special grounds of ejectment of non-occupancy tenants.

#### *Procedure.*

##### (A) IN EJECTMENT FOR ARREARS.

59. When a landholder desires to eject a tenant, on the ground specified in clause (a) of section 57, he shall apply in the same manner as for execution of the decree to the Court empowered at the time to execute the same.

Procedure in ejectment for arrears decreed.

60. The Court on receiving the application shall cause a notice to be served on the tenant, stating the amount due under the decree for which he is liable to ejectment and requiring him within fifteen days from the service of the notice to pay such amount into Court, or to show cause why he should not be ejected from his holding.

Notice to issue to tenant.

61. If the amount is not so paid, or if payment thereof is not certified to the Court in accordance with the provisions of section 258 of the <sup>1</sup>Code of Civil Procedure, within such time, or such further time as the Court may, for reasons to be recorded, think fit to allow, or if the tenant fails to show cause why such order should not be passed, the Court shall order the ejectment of the tenant.

Ejectment if arrears not paid.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

Provided that, if the tenant makes a claim on account of improvements, such claim shall be investigated and the Court shall record a finding as to the amount of compensation payable to the tenant on that account;

if the compensation exceeds the amount recoverable from the tenant as arrears of rent, whether already decreed or not, on account of his holding, together with costs (if any), the order for his ejectment shall be conditional on the payment by the landholder of the balance due to the tenant within such time as the Court may direct;

if the compensation does not exceed the amount recoverable from the tenant as above specified, the tenant shall be ejected, but he shall be entitled to set off the compensation found to be due to him against any claim for arrears of rent including costs (if any), made against him by the landholder:

Provided, also, that, if such claim is made in the Court of an Assistant Collector of the second class, he shall forward the application for ejectment to the Assistant Collector in charge of the sub-division, or the Collector, for disposal.

Sections 71 to 78 applicable to such proceedings.

62. The provisions of sections 71 to 78 shall be, so far as may be, applicable to all proceedings under section 59.

#### (B) IN EJECTMENT ON OTHER GROUNDS.

Suits for ejectment when to be filed.

63. (1) When a landholder desires to eject a tenant on any other ground than that specified in clause (a) of section 57, he shall proceed by suit; but no suit for the ejectment of a non-occupancy tenant on the grounds specified in section 58 shall be instituted except between the thirtieth day of June and the first day of October.

(2) Notwithstanding anything in sub-section (1), any suit for ejectment may be instituted between the thirty-first day of December, 1901, and the first day of April, 1902.

Sub-lessees and other transferees when to be made defendants.

64. (1) In a suit for ejectment—

- (a) where the ejectment of the tenant is sued for on the ground of any act or omission, or breach of condition, by a sub-lessee or other transferee involving the ejectment of the tenant; or
- (b) where the ejectment of the tenant is sued for on the ground specified in clause (d) of section 57,

the sub-lessee or other transferee must be joined as a party to the suit.

(2) In all other suits for ejectment, any person in possession claiming through the tenant may be joined as a party to the suit.

Procedure in ejectment for forfeiture.

65. (1) When a tenant is found liable to ejectment on the grounds specified in clause (b) or clause (c) of section 57, the Court shall give a decree for the ejectment of the tenant, but may in its decree direct that, if the tenant repairs the damage, or pays such compensation as the Court

thinks fit, within one month from the date of the decree, or such further time as the Court may, for reasons to be recorded, allow, the decree shall not be executed except in respect of costs.

(2) Notwithstanding anything contained in this section, a landholder may sue for compensation in addition to, or in lieu of, suing for ejectment: or for an injunction, or for the repair of the damage or waste with or without compensation.

66. (1) When a tenant is found liable to ejectment on the ground specified in clause (d) of section 57, the Court shall give a decree for the ejectment of both the tenant and the sub-lessee or other transferee, either from the holding or from such portion thereof as the Court, having regard to all the circumstances of the case, may direct. If the tenant is not a sub-tenant, the Court may in its decree direct that the decree may be executed as against the sub-lessee or other transferee on the application of the tenant alone, and that, if the tenant so ejects the sub-lessee or other transferee and resumes occupation of the land from which the sub-lessee or other transferee has been ejected within such time and on such terms as the Court may think fit, the decree shall not be executed as against the tenant except in respect of costs.

Procedure in  
ejectment for  
illegal sub-  
lease or other  
transfer.

(2) If the tenant is ejected, in execution of the decree, from a portion only of his holding, the Court shall determine the rent payable for the remainder of the holding, after allowing a suitable reduction for the portion of the holding, from which the tenant has been ejected.

67. (1) When a landholder sues under section 58 for the ejectment of a tenant holding under a registered lease for a term of not less than seven years, or holding over after the expiry of the term of such a lease, if the tenant pleads that the ejectment is, in fact, sued for because he has refused to agree to an enhancement of his rent, and such issue is decided in his favour,

Procedure in  
suit for eject-  
ment of ten-  
ant holding  
under  
registered  
lease for not  
less than  
seven years.

the Court shall proceed to inquire whether, having regard to the rents paid by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood, an enhancement of the rent can be fairly and equitably claimed, or not.

(2) If the Court finds that an enhancement can be fairly and equitably claimed, it shall determine the amount of such enhancement, and in such case shall pass a decree for the ejectment of the tenant, but shall direct in its decree that, if the tenant, within fifteen days from the date thereof, certifies to the Court that he agrees to pay the enhancement so determined, the decree shall not be executed except in respect of costs.

(3) If the Court finds that enhancement cannot be fairly and equitably claimed, it shall dismiss the suit for ejectment.

68. When, under the provisions of section 67, an enhancement of rent has been determined and has been agreed to by the tenant, or a suit for

Effect of de-  
cree in such  
suit.

ejectment has been dismissed, the tenant shall be entitled to retain his holding at the rent so enhanced, or at the rent hitherto payable, as the case may be, for a period of seven years from the first day of July next following the date of the institution of the suit, or for such longer period as the parties may agree upon, and for the purposes of section 11 the tenant shall be deemed to be holding under a registered lease for such period.

Procedure in  
ejectment for  
non-accept-  
ance of  
lease and  
delivery of  
counterpart.

69. When a tenant is found liable to ejectment on the ground specified in clause (c) of section 58, the Court shall give a decree for the ejectment of the tenant, but shall in its decree direct that, if the tenant receives the lease and delivers the counterpart within fifteen days from the date of the decree, or such further time as the Court may allow, the decree shall not be executed except in respect of costs.

Claim for  
improve-  
ments to be  
disposed  
of before  
ejectment.

70. (1) Notwithstanding anything hereinbefore contained, the ejectment of a tenant shall not be decreed in any suit, until any claim made by him on account of improvements has been investigated and the Court has recorded a finding as to the amount of compensation (if any) payable to the tenant on that account.

(2) If the compensation exceeds the amount that is recoverable from the tenant by the landholder on account of arrears of rent, together with costs (if any), the decree for ejectment shall be conditional on the payment of the balance due to the tenant within such time as the Court may direct.

(3) If the compensation does not exceed the amount recoverable from the tenant as above specified, the tenant shall be ejected, but he shall be entitled to set off the compensation found to be due to him against any claim for arrears of rent, including costs (if any), made against him by the landholder.

#### *Enforcement of Ejectment.*

Possession to  
be delivered.

71. (1) Every decree or order for ejectment shall be executed by delivery of possession of the land to the landholder, and no person claiming through the tenant shall be entitled to remain in occupation of the land, unless such occupation be not inconsistent with the provisions of this Act.

(2) If opposition be made to the delivery of possession by any person bound by the decree or order for ejectment, the District Magistrate or the Sub-divisional Magistrate shall, on the application of the Court, enforce the same.

Decree when  
not to be  
executed.

72. If the landholder expressly authorises the tenant in writing to remain in occupation of the land, the decree shall not be executed; and any officer deputed to eject the tenant shall return his warrant unexecuted, together with such authorisation to the Court which issued the warrant.



**73.** (1) Every ejectment in execution of a decree for ejectment shall take effect from the first day of July next following the date of the institution of the suit: Ejectment from when to have effect.

Provided that, if the decree is not passed before such first day of July, the ejectment shall take effect from the date on which the decree is executed.

(2) Every ejectment in execution of an order under section 61 shall take effect from the date on which the order is executed.

**74.** Until the ejectment takes effect, the tenant shall have the right to use the land for the purpose of growing, tending, gathering and removing crops or other products of the earth, but he shall not be entitled, in the absence of a contract or local custom to the contrary, to cut or remove any trees upon his holding. Tenant's right to use holding.

**75.** (1) If at the date on which the ejectment takes effect there are ungathered crops or other products upon the land, the landholder shall have the option of purchasing the same, and upon his forthwith tendering the price of the same to the tenant, the right of the tenant to such crops or other products, and to use the land for purpose of tending, gathering and removing the same, shall cease. Right to crops when ejectment takes effect.

(2) If the landholder does not elect to purchase the same, the tenant shall be entitled to use the land as aforesaid for a further period until such crops or other products have been gathered and removed, paying a fair rent therefor.

**76.** (1) In the case of a dispute as to the price of the crops or other products, which the landholder has elected to purchase under sub-section (1) of section 75, the landholder or the tenant may sue for an adjudication as to the same. Settlement of dispute as to price of crops

(2) The Court shall either confirm the tender, or award such price as it may consider to be fair and equitable, and shall pass a decree for the payment of the amount.

(3) Any rent recoverable from the tenant in respect of the holding from which he has been ejected may be deducted by the landholder from the price tendered under section 75, or by the Court from the amount decreed under this section

**77.** In a suit for arrears of rent due under sub-section (2) of section 75, if there is a dispute as to the amount of rent payable, the Court shall determine a fair and equitable rent and pass a decree accordingly. Dispute as to rent payable how settled.

**78.** The period during which the tenant may occupy the land in accordance with the provisions of sections 73, 74 and 75 shall not be taken into consideration in any suit or other proceeding in computing the period prescribed by section 11 for the acquisition of a right of occupancy. Period after ejectment not to count for right of occupancy.

*Remedies for Wrongful Ejection.*

Remedies for  
wrongful  
ejection.

79. (1) A tenant ejected, otherwise than in accordance with the provisions of this Act, may sue his landholder—

- (a) for recovery of the possession of the holding;
- (b) for compensation for wrongful dispossession; and
- (c) for compensation for any improvement he may have made:

Provided that, if the tenant would not have been entitled to remain in possession after the expiry of the agricultural year in which the decree is given, the decree of the Court, whether of first instance or of appeal, shall not be for recovery of possession, but for costs only, or, if compensation has been claimed and found to be due, for compensation and costs only.

(2) If the decree is for recovery of possession, no compensation for an improvement shall be awarded.

(3) When a decree is given for compensation for wrongful dispossession, but without recovery of possession, the compensation awarded shall be for the whole period during which the tenant was entitled to remain in possession.

(4) A tenant who has sued for recovery of possession only shall not be entitled to institute a separate suit for compensation for wrongful dispossession, in respect of the same cause of action.

(5) Nothing in this section shall bar a tenant who has sued for recovery of possession, but has failed to obtain a decree for reinstatement in his holding, from suing separately for compensation for any improvement he may have made.

Remedies  
when decree  
or order for  
ejection  
reversed.

80. (1) When a Court of appeal or revision reverses a decree or order for the ejection of a tenant, and the tenant would not have been entitled to remain in possession after the expiry of the agricultural year in which the decree or order of the Court of appeal or revision is given, the decree or order shall not be for recovery of possession, but for costs only.

(2) When a decree or order for ejection is reversed by a Court of appeal or revision—

(a) if the decree or order in appeal or revision is for recovery of possession,  
the tenant shall be entitled to sue his landholder for compensation for the period during which he remained out of possession;

(b) if the decree or order in appeal or revision is not for recovery of possession,  
the tenant shall be entitled to sue his landholder for compensation for the whole period during which he was entitled to remain in possession.

Who must be  
joined in suit  
under section  
79.

81. When a tenant sues under section 79 for recovery of possession, he shall join, as a defendant in the suit, every person in possession claiming through his landholder.

82. The provisions of section 71 shall apply, *mutatis mutandis*, to the execution of a decree for the reinstatement of a tenant in his holding.

Possession to be delivered.

### *Surrender.*

83. (1) A tenant, not bound by a lease or other agreement for a fixed period, may, at the end of any agricultural year, surrender his holding; but he shall not be entitled to surrender a portion only of his holding.

Surrender of holding by tenant.

(2) Notwithstanding such surrender, unless the tenant, before the first day of April, gives to the landholder notice in writing of his intention to surrender, he shall be liable to the landholder for the rent of the holding for the agricultural year next following the date of the surrender:

Provided that the tenant shall not be so liable in respect of any period during which the holding is let to another tenant, or is taken into his own cultivation, or use, by the landholder.

(3) Nothing in this section shall affect any arrangement by which a tenant and his landholder may agree to the surrender of the whole or any portion of a holding.

84. Notwithstanding anything in the last preceding section, when a decree or order for the enhancement of the rent of any holding is passed, and the tenant thereof within fifteen days of the date of such decree or order gives to the landholder notice in writing of his desire to surrender such holding at the commencement of the period in respect of which such enhancement takes effect, and surrenders such holding accordingly, he shall not be liable for the rent payable for such holding in respect of any period subsequent to such surrender.

Surrender upon enhancement of rent.

85. (1) If the landholder refuses to receive any notice under section 83 or section 84, the tenant may, before the expiry of the period limited for giving such notice, make an application to the Tahsildár, who shall thereupon cause the notice to be served on such landholder, the tenant paying the costs of service.

Service through Tahsildar of notice of surrender.

(2) Every such notice shall be deemed to have been received at the time it was first tendered.

86. (1) When any such notice has been received by or served on a landholder, he may institute a suit to have such notice declared invalid, and the Court shall thereupon determine the question between the parties.

Suit by landholder to set aside notice.

(2) If the landholder does not institute such suit, he shall be deemed to have accepted the surrender.

### *Abandonment.*

87. (1) When a tenant has ceased to cultivate his holding either by himself or by some other person, and has left the neighbourhood without arranging for the payment of his rent as it falls due and giving notice

Abandonment of holding by tenant.

to the landholder of such arrangement, the landlord may, at any time after the fifteenth day of May, enter on the holding and let it to another tenant or take it into his own cultivation.

(2) Before the landholder enters under this section, he shall file a notice in the office of the Tahsildar for service on the tenant stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Tahsildar shall cause a notice to be published in such manner as the Local Government, by rule, directs.

(3) When a tenant sues under section 79 for recovery of possession if the landholder proves that he was entitled to enter on the holding under the provisions of sub-section (1) of this section, the Court shall presume, in the absence of evidence to the contrary, that the tenant had abandoned his holding.

(4) If the tenant rebuts such presumption by satisfying the Court that he had, in fact, no intention of abandoning his holding, he shall be entitled, subject to the provisions of sub-section (1) of section 79, to reinstatement on such terms as the Court may think fit.

## CHAPTER VI.

### IMPROVEMENTS.

Right of  
tenants with  
right of  
occupancy  
to make im-  
provements.

**88.** Every tenant, not being a non-occupancy tenant, shall be entitled to make an improvement:

Provided that, in the absence of any local custom to the contrary, no tenant, except a permanent tenure-holder or a fixed-rate tenant, shall be entitled, without the written consent of the landholder, to plant trees.

Rights of non-  
occupancy  
tenants to  
make wells.

**89.** A non-occupancy tenant shall be entitled to construct, maintain and repair a well for the irrigation of his holding, with all works incidental thereto; but shall not be entitled, without the written consent of his landholder, to make any other improvement in respect of his holding:

Provided that, if the landholder desires to construct the well himself, he shall have a prior right to do so:

Provided, also, that—

(1) no tenant in sir land shall be entitled to make any improvement in respect of his holding without the written consent of his landholder; and

(2) no sub-tenant shall be entitled to make any improvement in respect of his holding without the written consent of the proprietor.

90. A tenant who has made an improvement which he is entitled to Compensation make shall be entitled to compensation for such improvement in the for improve- following cases:—  
ments.

- (a) when an order for his ejectment is given under section 61;
- (b) when a decree for his ejectment is passed under section 63; and
- (c) when he has been wrongfully dispossessed by his landholder and has not recovered possession of his holding.

91. In estimating the amount of compensation due to a tenant for Valuation of an improvement made by him, the Court shall have regard—  
compensation.

- (a) to the amount by which the letting value or the produce of the holding or the value of that produce is increased by the improvement;
- (b) to the condition of the improvement and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement, allowing for—
  - (i) any reduction or remission of rent or any other advantage allowed to the tenant by the landholder in consideration of the improvement;
  - (ii) any assistance given to the tenant by the landholder in money, material or labour; and
  - (iii) in the case of a reclamation or of the conversion of unirrigated to irrigated land, the length of time during which the tenant has had the benefit of the improvement.

92. (1) When the improvement benefits both the land from which the tenant is to be ejected and other land in the occupation of the same tenant, the compensation payable to the tenant shall be estimated with reference to the extent to which the land from which the tenant is to be ejected has benefited by such improvement. Improvement benefiting land from which tenant is not ejected.

(2) If the improvement has been executed on the land from which the tenant is to be ejected, the landholder, on payment of the compensation awarded to the tenant, shall become the owner of the improvement, but the tenant shall be entitled to the benefit of the improvement in respect of the land remaining in his occupation, to the same extent and in the same manner as that land has hitherto benefited by the improvement.

(3) If the improvement has been executed on land which remains in the occupation of the tenant, the landholder, on payment of the compensation awarded to the tenant, shall be entitled to the benefit of the improvement in respect of the land from which the tenant is ejected to the same extent and in the same manner as that land has hitherto benefited by it.

Landholder's  
right to make  
other than  
money com-  
pensation.

**93.** (1) When compensation is found to be payable to the tenant under section 70 or section 61, the landholder may apply to the Court to be allowed to give, in lieu of the sum payable or in lieu of part thereof, a beneficial lease of the holding, or of some other holding, or to make compensation in some other manner.

(2) If the tenant agrees to accept such beneficial lease or other form of compensation, the decree or order under section 70 or section 61 shall be modified accordingly.

(3) If the tenant refuses to accept a beneficial lease, and if the Court, after examining the tenant and making such further inquiry as it may deem necessary, is of opinion that the lease is suited to the circumstances of the tenant, and will adequately compensate the tenant for the improvement in respect of the whole or part of the compensation decreed as the Court may determine, and that the tenant has no valid reason for refusing to accept the lease, the Court shall allow the tenant one month within which to come to terms with the landholder, and if within that time, or within such further time (if any) as the Court may think fit to allow, the tenant accepts the lease, and such acceptance is certified by him to the Court, the Court shall proceed as provided in sub-section (2);

and if the tenant does not accept the lease within such time, he shall forfeit his right to so much of the compensation payable as would have been covered by the beneficial lease.

(4) No compensation other than a beneficial lease shall be decreed or ordered in lieu of money, except with the consent of the tenant.

(5) Every application under sub-section (1) shall be made within one month from the date of the decree or order under section 70 or section 61.

Disputes as  
to right to  
make im-  
provements,  
etc.

**94.** If a question arises between a tenant and his landholder—

(a) as to the right to make an improvement, or

(b) as to whether a particular work is an improvement,

the Assistant Collector in charge of the sub-division may, on the application of either party, decide the question, and the decision shall be final.

## CHAPTER VII.

### MISCELLANEOUS PROVISIONS REGARDING TENANCIES.

Suits res-  
pecting rights  
in tenancies.

**95.** At any time during the continuance of a tenancy either the landholder or the tenant may sue for a declaration as to any of the following matters, namely:—

(a) the name and description of the tenant of the holding;

(b) the class to which the tenant belongs;

(c) the situation, area, numbered plots or boundaries of the holding;

- (d) the rent payable in respect of the holding and whether payable in cash or kind;
- (e) the time, place, and manner of appraisal, division or delivery of crops for rent; and
- (f) the dates on which, and the instalments in which, the rent is payable.

96. (1) A non-occupancy tenant is entitled to receive a written lease from his landholder, and a landholder upon delivering or tendering to a non-occupancy tenant a lease consistent with the provisions of this Act, is entitled to receive from him a counterpart thereof. Right to written leases and counterparts.

(2) It shall be sufficient if such lease or counterpart contains the particulars specified in section 95, and, in addition, the term for which the tenant is entitled to hold.

(3) Such lease or counterpart may be in the form given in the Third Schedule.

(4) No omission in any such lease of any covenants or conditions not inconsistent with any of the particulars above specified, shall prevent either of the parties thereto from claiming the benefit of such covenants or conditions.

97. (1) When, under the provisions of this Act, or the Indian Registration Act, 1877, or any other enactment for the time being in force, any lease, counterpart or agreement with respect to a tenancy is required to be made by registered instrument, and such lease, counterpart or agreement— Attestation in lieu of registration.

(a) is for a term not exceeding ten years, and

(b) stipulates for rent not exceeding one hundred rupees annually,

the parties to such lease, counterpart or agreement may, in lieu of registering the same, obtain the attestation thereto of a Revenue Court, or of a Revenue-officer not inferior in rank to a kanungo, or of such other person as the Local Government may, by general or special order in this behalf, appoint, and subject to such conditions (if any), as the Local Government may, by rules made under this Act, direct.

(2) Such Court, officer or other person shall, after satisfying himself as to the identity of the parties, and their acquaintance with, and assent to, the terms of the lease, counterpart or agreement, make, sign and date an endorsement thereon to the effect that he has so satisfied himself.

(3) Such instrument shall thereupon be as valid as if it had been registered under the law for the time being in force for the registration of assurances.

98. In the absence of a contract to the contrary, a landholder is entitled to enter upon and measure the holding of his tenant. Landholder's right to measure land.

## CHAPTER VIII.

## PAYMENT AND RECOVERY OF RENT.

*Payment and Arrears of Rent.*

Instalments  
of rent.

99. The rent of a tenant shall be payable in instalments according to agreement, or, when there is no agreement, in such instalments and on such dates as the Local Government may, by rules made under this Act, prescribe.

Rent how  
payable.

100. A payment of rent may be made by the tenant, or through his agent, or by postal money-order, or by deposit in Court under section 3.

Rent when  
in arrear.

101. An instalment of rent not paid on the day on which it falls due becomes, on the following day, an arrear of rent, and the tenant shall be liable to pay interest on such arrear at one per cent per mensem.

Recovery  
of arrears.

102. (1) An arrear of rent shall be recoverable by suit, or by distraint, in accordance with the provisions of this Act, or in both of such ways.

(2) The provisions of sections 36 to 39 of the <sup>U. P. Act</sup> North-Western Provinces and Oudh Court of Wards Act, 1899, are hereby made applicable, <sup>III of 1899.</sup> *mutatis mutandis*, to the recovery of rents in all Government properties.

Compensation  
for extort-  
ing payment  
of rent by  
duress.

103. (1) If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such compensation, not exceeding the sum of two hundred rupees, as the Court thinks fit to decree.

(2) An award of compensation under this section shall not bar or affect any penalty or punishment to which the person guilty of such extortion may be subject under the Indian Penal Code.<sup>2</sup>

XLV of 1860.

*Produce Rents.*

Rights and  
liabilities in  
respect of  
produce.

104. (1) When rent is taken by estimate or appraisalment of the standing crop, the tenant shall be entitled to the exclusive possession of the crop.

(2) When rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from

<sup>1</sup> *Supra*. See now ss. 39 to 42 of the United Provinces Court of Wards Act, 1912 (U. P. Act 4 of 1912), *infra*.

<sup>2</sup> Genl. Acts, Vol. I.



the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landholder.

(4) If the tenant removes any portion of the crop or produce at such a time or in such a manner as to prevent the due estimate or appraisement or division thereof, or deals therewith in a manner contrary to local custom, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

**105.** When rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop,—

- (a) if either landholder or tenant neglects to attend at the proper time, or
- (b) if there is a dispute about the quantity, value or division of the produce,

an application may be presented by either party to the Court requesting that an officer be deputed to make the division, estimate, or appraisement.

Application  
for officer to  
make division,  
estimate or  
appraisement.

With the application the applicant shall deposit such fee as may be prescribed by the Local Government in rules made in this behalf.

**106.** (1) On receiving such application, the Court shall issue a written notice to the opposite party to attend on the date and at the time specified in the notice, and shall depute an officer by whom such division, estimate or appraisement shall be made.

Procedure  
on such  
application.

(2) If the opposite party objects that the rent is not taken by division, estimate or appraisement, or that no rent is payable, the officer deputed shall record the objection, but shall proceed as hereinafter provided.

(3) If, on or before the date appointed, the dispute has not been adjusted, he shall call on each of the parties to appoint, and shall himself appoint, a resident of the neighbourhood as an assessor to assist in the division of the produce, or the estimate, or appraisement of the crop.

(4) If either party fails to attend, or refuses to appoint an assessor the officer deputed shall nominate an assessor on his behalf.

(5) The officer deputed shall record, and in making his award shall have regard to, the opinions of the assessors.

(6) In the case of a division of the produce, if the parties agree to the award, the division shall be made accordingly. If the parties do not agree to such division, and in all cases in which the rent is payable by estimate or appraisement of the standing crop, the officer deputed shall make an

estimate of the value of the produce or crop and determine the rent payable. He shall then deliver his award and submit it with a report of his proceedings to the Court.

(7) The parties shall be at liberty to file objections to the award within one week after the day on which the award was delivered: and the Court shall hear such objections, and pass orders thereon, after such further inquiry (if any) as may appear to be necessary.

If an objection is filed that the rent is not payable by division, estimate or appraisement, or that no rent is payable, and the Court upholds the objection, it shall set aside the award.

If any other objection is filed, the Court may modify or confirm the award as it thinks fit, and shall pass an order for the payment of the rent and costs (if any), and such order shall have the effect of a decree for arrears of rent.

### *Receipts for Rent.*

Right of  
tenant to  
receipt for  
rent.

**107.** Every tenant who makes a payment on account of rent to his landholder shall be entitled to obtain forthwith from the landholder a written receipt for the amount so paid signed by the landholder.

**108.** (1) The receipt shall specify such of the following particulars as can be specified by the landholder at the time of payment, namely:—

- (a) the names of the payer and payee;
- (b) the names of the village with mahál or patti;
- (c) the amount paid;
- (d) a description of the holding on account of which the rent has been paid;
- (e) the year and instalment to which the payment has been credited;
- (f) whether the payment has been accepted as a payment in full, or only on account; and
- (g) the date on which the rent is paid.

(2) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Payments on  
account of  
instalments.

**109.** (1) When a tenant makes a payment on account of rent, he may declare the year or the year and the instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited on account of any arrear not barred by limitation that the landholder thinks fit.

Compensa-  
tion for  
refusing

**110.** If a landholder without reasonable cause refuses to deliver to a tenant a receipt containing the particulars hereinbefore prescribed for any

rent paid by him, or to credit the rent paid to the year and instalment to which the tenant has requested the payment to be credited, the tenant shall be entitled to recover from him such compensation not exceeding double the amount or value of the rent paid as the Court thinks fit to decree.

to deliver a receipt or to credit as requested.

*Deposit of Rent in Court.*

111. In any of the following cases, in which a money rent is due, namely,—

Application to deposit rent in Court.

- (a) when a tenant tenders to a landholder full payment of the rent due from him, and the landholder refuses to receive it, or intimates his unwillingness to grant a receipt for it;
- (b) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on their behalf;
- (c) when two or more persons severally claim the right to collect the rent, or when the tenant entertains a *bona fide* doubt as to who is entitled to receive the rent;

the tenant may make an application in writing to the Court for permission to deposit in Court the full amount of rent then due.

112. (1) The application shall contain a statement of the grounds on which it is made and shall state—

Contents of application.

- in case (a), the name of the person to whose credit the deposit is to be entered;
- in case (b), the names of the co-sharers to whom the rent is due; and
- in case (c), the names of the person or persons to whom rent was last paid and of the person or persons now claiming it.

(2) The application shall be verified as a plaint, and shall be accompanied by such fee as the Local Government may by rule direct.

113. If it appears to the Court to which an application under the provisions of section 111 is made that the applicant is entitled under that section to deposit the rent, it shall receive the rent and give a receipt for it under the seal of the Court.

Receipt to be granted.

114. A receipt given under the last preceding section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

Receipt a valid acquittance

in case (a) of section 111, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case (b) of that section, by the co-sharers to whom the rent is due;

in case (c) of that section, by the person entitled to the rent.

Notification of deposit.

**115.** The Court receiving the deposit shall forthwith cause to be affixed at a conspicuous place at the Court-house, and in the vernacular language of the district, a notification of the deposit of such rent, containing the name of the tenant, the name of the landholder, the amount of rent deposited, and any other material particulars.

Notice to whom sent.

**116.** (1) If the amount of deposit is not paid away under the next following section within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in case (a) of section 111, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case (b) of that section, cause a notice of the receipt of the deposit to be posted at the landholder's village office or residence, or in some conspicuous place in the village in which the holding is situate; and

in case (c) of that section, cause a notice to be served on every person who it has reason to believe claims or is entitled to such deposit.

Payment or refund of deposit.

**117.** (1) The Court may pay the amount of the deposit, to any person appearing to it to be entitled to the same, or may, if it thinks fit, and shall, if the deposit has been made under clause (c) of section 111, except upon the joint application of the disputing parties, retain the amount pending a decision of the Civil Court as to the person so entitled.

(2) The payment may, if the Court so directs, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil or Revenue Court to the contrary, be repaid to the depositor on his application and on his returning the receipt given by the Court with which the rent was deposited, or on his producing such other evidence of his having made the deposit as the Court may consider sufficient.

Barring of suits.

**118.** No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of Government, in respect of anything done by a Court regarding a deposit under the foregoing sections, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering the same from a person to whom it has been paid under the last preceding section.

## CHAPTER IX.

## DISTRAINT.

*Landholder's Right of Distraint.*

**119.** (1) The produce of all land in the cultivation of a tenant shall be deemed to be hypothecated for the rent payable in respect of such land by such tenant and by every person intermediate between such tenant and the proprietor; and until such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of a decree of a Civil or Revenue Court, or otherwise.

Recovery of  
arrears by  
distraint.

(2) When an arrear of rent is due from a tenant, the landholder may, in lieu of, or in addition to, suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due.

(3) Nothing in this section shall be deemed to affect the provisions of sections 2, 3 and 4 of <sup>1</sup>Regulation VI of 1823, or of section 11 of <sup>2</sup>Act XIII of 1857.

**120.** Notwithstanding anything in the last preceding section, no distraint shall be made—

When dis-  
traint not  
allowed.

- (a) by a co-sharer who is not entitled to collect the whole of the rent from a tenant;
- (b) by a landholder who has covenanted not to distrain;
- (c) by a landholder of any produce, of the whole or any portion of which a previous distraint has been made by him;
- (d) in respect of any arrear which has been due for a longer period than one year;
- (e) in respect of any arrear for which security has been accepted by the landholder;

and no distraint shall be made—

- (f) by an agent who is not expressly authorised by power-of-attorney in that behalf;
- (g) by a servant of a person empowered to distrain, unless he has a written authority to distrain.

**121.** (1) The landholder shall be entitled to distrain—

- (a) any crops or other products of the earth standing or ungathered on the holding;

What may be  
distrained.

<sup>1</sup> The Bengal Indigo-contracts Regulation, 1823, *supra*, Vol. I.

<sup>2</sup> The Opium Act, 1857, *supra*, Vol. I.

(b) any crops or other products of the earth which have been grown on the holding, and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain, or the like, whether in the fields or in a homestead.

(2) The landholder shall not be entitled to distrain—

(a) any crops or other products after they have been stored by the tenant;

(b) any other property whatsoever.

### *Procedure.*

Defaulter to be served with written demand and account.

**122.** (1) Before or at the time when a distraint is made, the distrainer shall serve on the defaulter a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall be dated and signed by the distrainer, and shall, if practicable, be served personally on the defaulter; or, if he cannot be found, shall be affixed to his usual place of residence.

Distraint to be proportionate to arrear, and list of property to be served on owner, and copy filed in tahsil.

**123.** (1) Unless the demand is immediately satisfied, the distrainer may distrain property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress: and shall prepare a list or description of the said property, date and sign the same, and deliver it to the defaulter, or, if he cannot be found, affix it to his usual place of residence, and a copy of such list or description, together with a copy of the written demand and account, shall be filed forthwith in the tahsil.

(2) If the distrainer has notice that the cultivator is some person other than the defaulter, a copy of the demand and of the list or description of the property shall, in like manner, be delivered to the cultivator.

(3) No distraint shall be made except between sunrise and sunset.

Standing crops, etc., when distrained, may be reaped and stored.

**124.** (1) Standing crops and other ungathered products may, notwithstanding the distraint, be tended, reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

(2) If the cultivator neglects to do so, the distrainer shall cause the said crops or products to be tended, reaped or gathered, and stored in some convenient place in the neighbourhood, at the expense of the cultivator.

(3) In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Sale of products which cannot be stored.

**125.** Crops or products which, from their nature, do not admit of being stored, may be sold as hereinafter provided before they are reaped or gathered; but, in such case, the distraint shall be made at least twenty

days before the time when the crops or products, or any part of the same, are fit for reaping or gathering.

**126.** If a distrainer is opposed, or apprehends resistance, he may apply to the Court, and the Court shall, if it appears necessary, depute an officer to assist the distrainer in making the distraint.

Assistance to distrainer opposed or apprehending resistance.

**127.** If at any time after property has been distrained, and before the day fixed for putting it up to sale as hereinafter provided, the defaulter or cultivator tenders payment of the arrear demanded and of the expenses of the distraint, the distrainer shall receive the same and shall forthwith withdraw the distraint.

Distraint to be withdrawn on tender of arrear and expense before sale.

**128. (1)** Within five days from the time of making the distraint, the distrainer may apply to the proper officer, hereinafter called the sale-officer, for sale of the property specified in the list or description filed under section 123.

Application for sale.

(2) If no such application is made, the crops or products shall be released from distraint.

**129.** The application shall be in writing, and shall specify the following particulars, namely:—

Contents of application.

- (a) the name and residence of the defaulter, and, in the case provided for in section 123 (2), of the cultivator also;
- (b) the amount due;
- (c) the date of the distraint; and
- (d) the place in which the distrained property is.

**130.** Together with the application, the distrainer shall deliver to the sale-officer the fee for the service of notice as hereinafter provided.

Fee for service of notice.

**131. (1)** Immediately on receipt of such application and fee, the sale-officer shall send a copy of the application and of the list or description filed under section 123 to the Court having authority to entertain a suit to contest the distraint,

Procedure on receipt of application.

and shall serve notice on the defaulter, requiring him either to pay the amount demanded, or to institute a suit to contest the distraint within fifteen days from the receipt of the notice.

(2) In the case provided for in section 123 (2) similar notice shall be served on the cultivator.

(3) The sale-officer shall by order fix the date for the sale, which shall be not less than twenty days from the date of the application, and shall cause it to be proclaimed at the place where the distrained property is; and he shall also send a copy of his order to the Court to be put up in its office.

(4) The proclamation shall also specify—

- (a) the property to be sold,

- (b) the demand for which it is to be sold, and
- (c) the place where the sale is to be held.

When sale  
may be pro-  
ceeded with.

**132.** If the institution of a suit to contest the distraint has not been certified, under section 142 (2), to the sale-officer on or before the date fixed in the proclamation of sale, he shall, unless the said demand, with such expenses of the distraint as are allowed by him, is discharged in full, proceed, in manner hereinafter prescribed, to sell the property or such part of it as may be necessary to satisfy the demand with the expenses of the distraint and the costs of the sale.

Place and  
manner of  
sale.

**133.** (1) The sale shall be held at the place where the distrained property is, or at the nearest place of public resort, if the sale-officer is of opinion that it is likely to sell there to better advantage.

(2) The property shall be sold by public auction, in one or more lots, as the sale-officer may think advisable.

(3) If the demand, with the expenses of the distraint and the costs of the sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

If fair price  
not offered,  
sale may be  
postponed  
and shall be  
then com-  
pleted.

**134.** If, on the property being put up for sale, a fair price in the estimation of the sale-officer is not offered for it, and if the defaulter or cultivator applies to have the sale postponed until the next day, or, if a market is held near the place of sale, the next market-day, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Payment of  
purchase-  
money.

**135.** The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the sale-officer thinks necessary.

Re-sale on  
default.

**136.** In default of such payment, the property shall be put up again and sold, and the deficiency in price (if any) which may happen on such second sale, and all expenses attending such second sale, shall be certified to the Court by the sale-officer, and shall, at the instance either of the distrainer, the defaulter or the cultivator, be recoverable from the defaulting purchaser under the rules contained in Chapter XIX of the Code of XIV of 1882 Civil Procedure for the execution of a decree for money.

Certificate to  
purchaser.

**137.** When the purchase-money has been paid in full, the sale-officer shall give the purchaser a certificate describing the property purchased by him and the price paid.

Disposal of  
proceeds of  
sale.

**138.** (1) From the proceeds of every sale of distrained property under this Act, the sale-officer shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall remit the amount so deducted to the Tahsildar.

(2) He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distraint, and of the issue of the notice and



proclamation of sale prescribed in section 131 to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

(3) The remainder shall be applied to the discharge of the arrear for which the distraint was made.

(4) The surplus (if any) shall be delivered to the person whose property has been sold.

**139.** Sale-officers, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. Sale-officers and employes prohibited from purchasing.

**140.** If, in any case, on proceeding to hold any such sale, the sale-officer finds that due notice of the distraint and intended sale has not been given, he shall postpone the sale and report the case to the Court, which shall thereupon direct the issue of another notice and proclamation of sale under section 131, or pass such other order as it thinks fit. Postponement of sale and report to Court when owner has not received due notice.

**141.** (1) When the sale-officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place, because the demand of the distrainer has been previously satisfied, without any intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of costs shall be leviable, and shall be calculated on the estimated value of the distrained property. Levy of charge when sale-officer attends and no sale takes place.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be payable by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.

(3) In every other case it shall be payable by the distrainer, and may be recovered from him as an arrear of revenue.

(4) In no case shall a larger amount than ten rupees be recoverable under this section.

*Suits relating to Distraint.*

**142.** (1) If sale has not taken place under section 132 or section 136, any person whose property has been distrained may bring a suit to contest the distraint: provided that, if notice has been served on the plaintiff under sub-section (1) or sub-section (2) of section 131, he must institute his suit within fifteen days from the receipt of the notice. Suit to contest distraint before sale.

(2) If a suit is instituted under sub-section (1), the Court shall send to the sale-officer, or, if so requested, shall deliver to the plaintiff, a certificate of the institution of such suit; and on such certificate being received by, or presented to, the sale-officer before sale has taken place, he shall suspend the sale.

(3) In a suit to contest a distraint, the distrainer shall be required to prove the amount of the arrear for which the distraint was made.

(4) If the plaintiff in a suit under this section is the defaulter or the cultivator, and the demand of the distrainer, or any part thereof, is found

to be due, the Court shall make a decree for the amount in favour of the distrainer, and such amount shall be recovered from the property as provided in section 144.

(5) If the distraint is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may, or the application of the plaintiff, award to him such compensation as the circumstances of the case may require.

Distraint to be withdrawn on security given.

**143.** (1) The plaintiff may, at the time of instituting any such suit as aforesaid, or at any subsequent period, give security for the payment of whatever sum may be adjudged to be due from the defaulter with interest and costs of the suit.

(2) When such security has been given, the Court shall give to the plaintiff a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same.

(3) Upon such certificate being presented to the distrainer, or served on him by order of the Court, the property shall be released from distraint.

Sale of property when amount adjudged due.

**144.** (1) When the distrained property has not been released from distraint under the provisions of section 143, if the demand, or any portion of it, is adjudged to be due, the Court shall issue an order to the sale-officer specifying the amount adjudged to be due, and authorising the sale of such property.

(2) The sale-officer shall thereupon fix a date for the sale not less than five nor more than ten days from the date of the proclamation, and shall cause the same to be proclaimed, and, unless the amount specified in the order of the Court, together with the expenses of distraint, is paid, shall sell the property as hereinbefore provided.

Persons not suing in time to save property from sale may sue for compensation.

Wrongful acts of distrainer.

**145.** If a person whose property has been distrained has not brought a suit to contest the distraint as provided by section 142, and his property is sold, he may, nevertheless, institute a suit to recover compensation for such distraint and sale.

**146.** If any person under colour of this Act distrains or sells, or causes to be sold, any property otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed by reason of the distrainer not having taken proper precautions for the keeping and preservation thereof,

or if the distraint is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the owner of the property may institute a suit against the distrainer for compensation for any injury which he has thereby sustained.

If the distrainer is an agent or servant, his principal may be joined as a defendant in the suit.

*Special Provisions.*

147. (1) When an arrear of rent is realised from a cultivator by proceedings in distraint by any person other than his immediate landholder, he shall be entitled to deduct the amount so realised from any rent payable by him to such landholder, and such landholder, if he is not the defaulter, shall in like manner be entitled to deduct the same amount from any rent payable by him to his landholder, and so on until the defaulter is reached.

Rights in respect of sub-tenancies.

(2) In lieu of deducting any such amount so realised, the sub-tenant shall be entitled to institute a suit for the recovery of the same from the defaulter.

(3) Where land is sub-let and any conflict arises between the claims of a superior and inferior landholder who distrain the same property, the claims of the superior landholder shall have priority.

148. When any conflict arises between the rights of a distrainer and of a person attaching or selling the same property in execution of a decree of a Civil or Revenue Court, the right of the distrainer shall prevail; but the surplus (if any) payable under section 138 to the person whose property has been distrained shall be deposited in the Court from which the order for attachment or sale issued.

Conflict of rights upon distraint and attachment.

*Penalties.*

149. (1) If any person—

- (a) under colour of this Act dishonestly distrains, sells or causes to be sold any property, otherwise than in accordance with the provisions of this Act, or
- (b) resists a distraint duly made under this Act, or forcibly or clandestinely removes any property duly distrained under this Act.

Penalties for dishonest distraint, or resistance to distraint.

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

XLV of 1860.

(2) Any person who abets the doing of any such act shall be deemed to have abetted the commission of such offence.

CHAPTER X.<sup>2</sup>

## RESUMPTION OF RENT-FREE GRANTS.

150. A proprietor of a mahal or part of a mahal may sue to resume possession of, or to have rent assessed on, any land situated in such mahal or part of a mahal purporting to be held rent-free, whether by grant in writing or otherwise, or to have the holder thereof declared to be liable to pay the revenue assessed on it.

Land held rent-free liable to resumption, assessment or rent or payment of revenue.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> This Chapter does not apply to any holding to which the Gorakhpur Gorais Act, 1919, applies—see U. P. Act I of 1919, s. 3, *infra*, Vol. III.

having of cer-  
tain lands  
held rent-free.

**151.** All land held rent-free shall be liable to resumption or assessment of rent, or the holder of such land shall be declared liable to pay the revenue assessed thereon unless the holder establishes that the land previously to the twenty-second day of December, 1873—

- (a) was held rent-free under a judicial decision, or
- (b) had been acquired as a rent-free holding for a valuable consideration and the right to resume it had been barred by section 28, <sup>1</sup>Act X of 1859, or by the <sup>2</sup>Indian Limitation Act, IX of 1871, 1871, Schedule II, Article 130:

Provided that no land held under a written instrument, whether executed before or after the commencement of this Act, by which the grantor expressly agrees that the grant shall not be resumed, shall be liable to resumption or assessment of rent until the grantor dies, or the term of the current settlement of the local area in which the grant is situated expires, whichever event first occurs.

procedure  
when district  
under set-  
tlement.

**152.** (1) Suits under section 150 shall, when the local area in which the land is situated is under settlement, be instituted in the Court of the Settlement Officer, who shall have the powers of a Collector under this Chapter.

(2) Nothing in the <sup>2</sup>Indian Limitation Act, 1877, shall bar the right <sup>xv</sup> of 1877. to institute a suit under this Act to assess to rent land held rent-free.

procedure in  
suit for  
resumption.

**153.** (1) In a suit for the resumption of a rent-free grant, if the Court finds, on grounds other than those specified in section 151, that the grant is not liable to resumption, it shall proceed to determine, under sections 156 and 158, whether the land is liable to assessment of rent, or whether the holder thereof is liable to pay the revenue assessed thereon.

(2) In a suit for the assessment of rent on a rent-free grant, if the Court finds, on grounds other than those specified in section 151, that the land is not liable to assessment of rent, it shall proceed to determine, under section 158, whether the holder thereof is liable to pay the revenue assessed thereon.

rent-free  
land when  
liable to  
resumption.

**154.** (1) Land held rent-free shall be liable to resumption, only when by the terms of the grant or by local custom it is held—

- (a) at the pleasure of the grantor; or
- (b) for the performance of some specific service, religious or secular, which the proprietor no longer requires; or
- (c) conditionally or for a term, and the condition is broken or the term expires.

<sup>1</sup> The Bengal Rent Act, 1859, was repealed by the N.-W. P. Rent Act, 1873, which has been repealed by Act 12 of 1881. This Act repealed the Act of 1881.

<sup>2</sup> Act 9 of 1871 was repealed by the Indian Limitation Act, 1877 (15 of 1877), which has been repealed by Act 9 of 1908, Genl. Acts, Vol. VI.

(2) Every suit for resumption shall be brought within twelve years from the date on which the right to resume first accrued. Such right first accrues—

in case (a), at the commencement of this Act in respect of existing grants, and in respect of future grants on the date of such grant;

in case (b), on notice in writing by the proprietor to the grantee that the service is no longer required;

in case (c), when the condition is broken or the term expires.

(3) Nothing in this section shall prevent the proprietor from suing for assessment of rent on land resumable under this section in lieu of resumption thereof.

**155.** If the Court orders the grant to be resumed, it shall at the same time pass a decree for the ejectment of the holder subject to the provisions of sections 73 to 76 which shall apply as if the holder had been a tenant.

Order of ejectment when the land is resumed.

**156.** Land not liable to resumption under section 154 and to which the provisions of section 158 do not apply shall be liable to assessment of rent.

Rent-free land when liable to assessment of rent.

**157.** (1) When a rent-free grant is found to be liable to have rent assessed thereon, the grantee shall be deemed to have been a tenant from the date of the grant, and the class of his tenancy shall be determined in accordance with the provisions of this Act.

Determination of class of tenure and rent.

(2) If the grantee is so declared to be an occupancy tenant, the rent decreed at the prevailing rate paid by occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

(3) If the grantee is so declared to be a non-occupancy tenant, the rent shall be decreed at such rate as the Court may determine to be fair and equitable, having regard to the rents paid by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

(4) A non-occupancy tenant whose rent has been so fixed shall be entitled to hold the land at that rate for a period of seven years, and the decree shall have the same force and effect as a registered lease under the provisions of section 11.

(5) The rent decreed under sub-section (2) or sub-section (3) shall be payable from the first day of July next following the date of the institution of the suit.

**158.** Land not liable to resumption under section 154 and which has been held rent-free for fifty years and by two successors to the original grantee, and land which was acquired in perpetuity in consideration of the loss or surrender of a right previously vested in the grantee, or by a written instrument and for a valuable consideration, shall be deemed to be held in proprietary right; and the Court shall declare the holder of such land to be the proprietor thereof and to be liable to pay the revenue thereon and shall determine the revenue payable by him.

When rent-free tenure confers proprietary right.

## CHAPTER XI.

## ARREARS OF REVENUE, PROFITS, &amp;C.

Suit for arrears of revenue, &c., by lambardar. **159.** A lambardar may sue a co-sharer for arrears of revenue payable to Government through the lambardar by such co-sharer and for village-expenses and other dues for which such co-sharer may be liable to the lambardar.

Suit for arrears of revenue by co-sharer. **160.** A co-sharer who pays arrears of revenue on account of another co-sharer who defaults may sue such co-sharer for the amount so paid.

Suit for arrears of revenue by muafidar, &c. **161.** A muafidar or assignee of revenue may sue for arrears of revenue due to him as such.

Suit for arrears of revenue or rent by taluqdar, etc. **162.** A taluqdar or other superior proprietor may sue for arrears of revenue or rent due to him as such.

Profits when divisible. **163.** In the absence of any determination of the date by the Settlement Officer, or of an express agreement among the co-sharers, profits shall be divisible on such dates as the Local Government may, by rules made under this Act, prescribe.

Suit for profits against lambardar. **164.** (1) A co-sharer may sue the lambardar for his share of the profits of a mahál, or of any part thereof.

(2) In any such suit the Court may award to the plaintiff not only a share of the profits actually collected, but also of such sums as the plaintiff may prove to have remained uncollected owing to the negligence or misconduct of the defendant.

Suit for profits against co-sharer. **165.** (1) A co-sharer may sue another co-sharer for a settlement of accounts, and for his share of the profits of a mahál, or of any part thereof.

(2) In any such suit the plaintiff may sue any number of co-sharers collectively, and in such case the decree shall specify the extent to which each of the defendants is affected thereby.

Words "lambardar," &c., include heirs, &c. **166.** The words "lambardar," "co-sharer," "muafidar," "assignee of revenue", "taluqdar", and "superior proprietor" in this Chapter include also the heirs, legal representatives, executors, administrators and assigns of such persons.

## CHAPTER XII.

## JURISDICTION OF COURTS.

*Suits and Applications.*

Suits and applications cognizable by Revenue Courts only. **167.** All suits and applications of the nature specified in the Fourth Schedule shall be heard and determined by the Revenue Courts; and, except in the way of appeal, as hereinafter provided, no Court other than a

Revenue Court shall take cognizance of any dispute or matter in respect of which any such suit or application might be brought or made.

XV of 1877. **168.** Subject to the provisions of this Act, the provisions of the <sup>1</sup>Indian Application of Limitation Act, 1877, with the exception of sections 7, 8, 9, 19, 20 and 21 thereof, shall apply to all suits and other proceedings under this Act.

**169.** The suits and other proceedings specified in the Fourth Schedule shall be instituted within the time prescribed in that Schedule for them respectively.

VII of 1870. **170.** For the purposes of the <sup>2</sup>Court-fees Act, 1870, the amount of fee payable in the suits and other proceedings specified in the Fourth Schedule shall be computed as prescribed in the sixth column thereof.

#### *Grades of Courts.*

**171.** An Assistant Collector of the second class shall have power to dispose of all suits included in Group (A) in which the value of the subject-matter does not exceed one hundred rupees and all applications included in Group (D) of the Fourth Schedule, except an application under section 94.

**172.** An Assistant Collector of the first class shall have power to dispose of all suits and applications specified in the Fourth Schedule: Provided that no Assistant Collector shall have power to try suits under sections 40, 42, 43 and 48, unless he is empowered by the Local Government in that behalf.

**173.** A Collector shall have all the powers conferred on an Assistant Collector of the first class and on a Collector by this Act.

XIV of 1882. **174.** Notwithstanding anything contained in section 15 of the <sup>3</sup>Code of Civil Procedure—

- (a) all suits included in Group (A), in which the value of the subject-matter does not exceed one hundred rupees, and all applications included in Group (D), of the Fourth Schedule shall, except as provided in section 59 and section 94, be filed in the Court of the Tahsildar;
- (b) all suits included in Group (A), in which the value of the subject-matter exceeds one hundred rupees, and all suits included in Group (B) and Group (C), of the Fourth Schedule, and all applications under section 94, shall be filed in the Court of the Assistant Collector in charge of the sub-division:

Provided that, if there is no Assistant Collector in charge of the sub-division, all such suits shall be filed in the Court of the Collector.

<sup>1</sup> See now Act 9 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

*Appellate Jurisdiction of Courts.*

Appeals to be  
as allowed by  
Act.

**175.** No appeal shall lie from any decree or order passed by any Court under this Act except as hereinafter provided.

*Appeals from Assistant Collectors of the second class.*

Appeals from  
decree or  
orders of  
Assistant  
Collectors,  
second class.

**176.** An appeal shall lie to the Collector from the decree or order of an Assistant Collector of the second class in the following cases:—

- (a) from a decree in any of the suits included in Group (A) of the Fourth Schedule;
- (b) from an order on any of the applications included in Group (D) of the Fourth Schedule;
- (c) from an order relating to the trial of a suit or application.

*Appeals from Assistant Collectors of the first class.*

Appeals to  
District  
Judge and  
High Court.

**177.** An appeal shall lie to the District Judge from the decree of an Assistant Collector of the first class in any of the suits included in Group (A) and Group (B) of the Fourth Schedule in which—

- (a) the amount or value of the subject-matter exceeds one hundred rupees; or
  - (b) the rent annually payable by a tenant has been a matter in issue in the Court of first instance, and is a matter in issue in the appeal; or
  - (c) the amount of rent payable separately to one or more of a number of co-sharers has been in issue in the Court of first instance, and is a matter in issue in the appeal;
- and in any suit under sections 159, 160, 161, 162, 164 and 165 in which—
- (d) the amount of the revenue annually payable has been a matter in issue in the Court of first instance, and is a matter in issue in the appeal;

and in all suits in which—

- (e) a question of proprietary title has been in issue in the Court of first instance, and is a matter in issue in the appeal; or
- (f) a question of jurisdiction has been decided:

Provided that, when the amount or value of the subject-matter of the suit exceeds five thousand rupees, the appeal shall lie to the High Court.

Appeals to  
Board.

**178.** An appeal shall lie to the Board from the order of an Assistant Collector of the first class under section 52.

Appeals to  
Commissioner.

**179.** An appeal shall lie to the Commissioner from the decree of an Assistant Collector of the first class in any of the suits included in Group (C) of the Fourth Schedule and from an order rejecting an application under section 59, or allowing further time under section 61.



*Appeals from Collectors.*

180. (1) An appeal shall lie from an original decree or order of a Collector in the same manner and under the same conditions as from a decree or order of an Assistant Collector of the first class.

Appeals from  
decrees and  
orders of  
Collector.

(2) An appeal shall lie to the District Judge from an appellate decree of a Collector in any of the suits included in Group (A) of the Fourth Schedule in which—

- (a) a question of proprietary title has been in issue in the first Appellate Court, and is a matter in issue in the appeal; or
- (b) a question of jurisdiction has been decided.

*Appeals from Commissioners.*

181. A second appeal on any of the grounds specified in section 584 of the Code of Civil Procedure shall lie to the Board from the decree of a Commissioner in any case in which he has reversed or modified the decree appealed against, otherwise than as regards costs.

Appeals from  
decrees of  
Commissioner.

*Appeals from District Judges.*

182. A second appeal shall lie to the High Court from the decree in appeal of a District Judge in accordance with the provisions of Chapter XLII of the Code of Civil Procedure.

Appeals from  
decrees of  
District  
Judge

*Review.*

183. The Board, on the application of a party to the case, may review and may rescind, alter or confirm any decree or order made by itself, or by a single member.

Review by  
Board.

184. Every other Court shall be competent to review its judgment in accordance with the provisions of Chapter XLVII of the Code of Civil Procedure.

Review by  
other Courts.

*Revision.*

185. The Board may, on the application of a party to the case, or on report made, or of its own motion, call for the record of any case which has come before any subordinate Revenue Court, other than a suit in which the decree is appealable under section 177, in which the Court appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction illegally or with material irregularity; and may pass such order thereon as the Board thinks fit.

Power of  
Board to call  
for cases.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

*Transfer of Cases.*

Transfer of  
cases by  
High Court

**186.** Section 25 of the <sup>1</sup>Code of Civil Procedure shall apply only to XIV of 1882. the transfer of appeals under this Act by the High Court from the Court of one District Judge to the Court of another District Judge.

Transfer of  
cases by  
Board.

**187.** The Board may, on sufficient cause being shown, transfer any suit, application or appeal, or class of suits, applications or appeals, from any Revenue Court to any other Revenue Court competent to deal therewith.

Transfer of  
cases by  
Commissioner.

**188.** A Commissioner may exercise the same powers within the limits of his division as the Board under the last preceding section.

Transfer of  
appeal by  
Commissioner  
or Collector.

**189.** (1) A Commissioner may, with the previous sanction of the Local Government, transfer any appeal or class of appeals pending before himself to any Collector <sup>2</sup>[or Additional Collector] within his division.

(2) The order passed by a Collector <sup>2</sup>[or Additional Collector] on an appeal transferred to him by a Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner.

(3) The Local Government may by order recall any appeal or class of appeals transferred to a Collector <sup>2</sup>[or Additional Collector] under sub-section (1), and refer the same for disposal to the Commissioner.

Transfer of  
cases by  
Collector or  
Assistant  
Collector.

**190.** A Collector or an Assistant Collector in charge of a sub-division may transfer any case, or class of cases, pending before himself, to any subordinate Court competent to deal therewith.

Withdrawal  
of cases by  
Collector or  
Assistant  
Collector.

**191.** A Collector or an Assistant Collector in charge of a sub-division may withdraw any case or class of cases from any Court subordinate to him, and may try such case or class of cases himself, or transfer the same to any other subordinate Court competent to deal therewith.

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## CHAPTER XIII.

### PROCEDURE.

Place of  
sitting of  
Revenue  
Courts.

**192.** (1) The Board may sit for the disposal of cases under this Act at the head-quarters of any district in the North-Western Provinces.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> These words were inserted by s. 3 of U. P. Act 3 of 1920, *infra*. Vol. III.

U. P. Act  
III of 1901.

XIV of 1882.

(2) Every other Revenue Court shall sit for the disposal of such cases as provided in section 189 of the 'North-Western Provinces and Oudh Land-revenue Act, 1901.

**193.** The provisions of the <sup>2</sup>Code of Civil Procedure shall apply to the procedure in all suits and other proceedings under this Act so far as they are not inconsistent therewith, and subject to the following modifications and additions:—

Application  
of Code  
of Civil  
Procedure.

XIV of 1882

(a) Clause (a) of the second proviso to section 266, sections 320 to 326 (both inclusive), Chapter XX, section 370, and Chapters XXVI, XXXIII, XXXIX, XL, XLIII and XLIV of the <sup>2</sup>Code of Civil Procedure, shall not apply to any such suit or proceeding;

and section 25 of the said Code shall apply only to the extent specified in section 186 of this Act.

(b) Applications under sections 85, 105, 111, 117 and 126 may be disposed of *ex parte*.

(c) In clauses (a) and (c) of section 37 of the said Code, for the words "not resident" shall be substituted the words "whether resident or not."

(d) In addition to the particulars required by section 50 of the said Code, the plaint shall specify the name of the village or mahal, and of the pargana or other local division, in which the land is situate, to which the suit or other proceeding relates, and (unless such land can be otherwise adequately described) the number of each field according to the Government survey;

and, if the suit is for arrears of rent, the plaint shall contain a statement of account showing the annual demand for each period to which the suit relates, the amount (if any) received, and the amount claimed to be due;

and, if the suit is for the ejectment of a tenant, the plaint shall set forth the ground or grounds on which the ejectment is sued for.

(e) In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only.

(f) The service of a summons or notice may, if the Local Government by rule, either generally or specially for any local area, so directs, be effected either in addition to, or in substitution for, any other mode of service, by forwarding the summons or notice by post in a cover registered under the <sup>3</sup>Indian Post

VI of 1898.

<sup>1</sup>*Infra.* Read now the United Provinces Land-revenue Act, 1901, see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), *infra*.

<sup>2</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>3</sup> Genl. Acts, Vol. V.

Office Act, 1898; and when a summons or notice is so forwarded, and it is proved that the cover was duly registered and posted, the Court may presume that the summons or notice has been duly served.

- (g) No set-off shall be allowed in any suit under this Act, except a sum due to the defendant on an unsatisfied decree under this Act or under any enactment hereby repealed.
- (h) After paragraph 2 of section 206 of the said Code the following words shall be inserted :—  
 “ If the decree is for arrears of rent, it shall also state the amount (including interest) due on account of each agricultural year in respect of which relief has been granted.”
- (i) Notwithstanding anything contained in section 232 of the said Code, an application for the execution of a decree shall not be made by an assignee of the decree unless the assignor's interest in the land to which it relates has become and is vested in such assignee.
- (j) To the particulars not liable to attachment or sale under section 266 of the said Code shall be added “ manure stocked by an agriculturist.”
- (k) Standing timber, growing crops or other products of the earth may be attached and sold in execution of a decree in the same manner as moveable property, and, if the property attached is growing crops or other products of the earth, the judgment-debtor and the decree-holder shall have the same rights in respect of the tending, gathering and storing thereof as the cultivator and the distrainer, respectively, would have had under section 124 if such crops or products had been distrained for an arrear of rent.
- (l) If the property against which execution is applied for is a mahal, or a share of a mahal, or the holding of a permanent tenure-holder, the decree shall be sent to the Collector, who shall execute the same as if it had been a decree of his own Court.
- (m) Notwithstanding anything contained in section 341 of the said Code, if the judgment-debtor has been discharged from jail, and the amount due under the decree does not exceed one hundred rupees, the Court may declare him absolved from further liability under that decree, and such liability shall thereupon be extinguished.

Suits, &c., by  
co-sharer in  
property.

194. (I) Where there are two or more co-sharers in any right, title or interest, all things required or permitted to be done by the possessor of the same shall be done by them conjointly, unless they have appointed an agent to act on behalf of them all.

(2) Nothing in sub-section (1) shall affect any local custom or special contract by which a co-sharer in an undivided property is entitled to receive separately his share of the rent payable by a tenant.

(3) When one of two or more co-sharers is not entitled to sue alone, and the remaining co-sharers refuse to join as plaintiffs in a suit for money recoverable by them jointly, such co-sharer may sue separately for his share thereof, joining the remaining co-sharers as defendants.

## CHAPTER XIV.

### CONFLICT OF JURISDICTION AND QUESTIONS OF TITLE.

#### *Conflict of Jurisdiction.*

195. (1) If in any suit, application, or appeal filed in a Civil or Revenue Court, the Court doubts whether such suit, application or appeal should be filed in a Civil or a Revenue Court, it may submit the record, with a statement of the reasons for its doubt, to the High Court. Power to refer to High Court question as to jurisdiction.

(2) If the Court is a Revenue Court subordinate to a Collector, no such reference shall be made except with the sanction of the Collector previously obtained.

(3) On any such reference being made, the High Court may order the Court either to proceed with the case, or to return the plaint, application or appeal for presentation to such other Court as it may declare to be competent to try the same.

(4) The order of the High Court on any such reference shall be final.

196. When, in a suit instituted in a Civil or Revenue Court, an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the Appellate Court unless such objection was taken in the Court of first instance; but the Appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court. As to plea in appeal that suit was instituted in wrong Court.

197. (1) If in any such suit such objection was taken in the Court of first instance, but the Appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court. Procedure when such objection was taken in Court of first instance.

(2) If the Appellate Court has not before it all such materials, and remands the case, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court in which the suit was instituted, or to such Court as it may declare to be competent to try the same.

(3) No objection shall be taken or raised in appeal or otherwise to any such order on the ground that it has been directed to a Court not competent to try the suit.

*Questions of Proprietary Title in Revenue Court.*

Procedure  
when tenant  
pleads plain-  
tiff is not his  
landholder.

**198.** (1) When, in any suit against a tenant under this Act, the defendant pleads that the relation of landholder and tenant does not exist between the plaintiff and himself on the ground that he actually and in good faith pays the rent of his holding to some third person,

the question of such payment of the rent to such third person shall be inquired into, and, if the question is decided in favour of the defendant, the suit shall be dismissed.

(2) The decision of the Court on such question shall not affect the right of any person entitled to the rent of the holding to establish his title by suit in the Civil Court.

Procedure  
when defend-  
ant pleads he  
is not a  
tenant.

**199.** (1) If in any suit or application filed in a Revenue Court against a person alleged to be the plaintiff's tenant, the defendant pleads that he is not a tenant but has a proprietary right in the land, and such question of title has not been already determined by a Court of competent jurisdiction, the Court may either—

(a) by order in writing require the defendant to institute, within three months, a suit in the Civil Court for the determination of such question of title, or

(b) determine such question of title itself.

(2) When an order has been passed under clause (a) of sub-section (1), if the defendant fails to comply with it, the Court shall decide such question of title against him. If the defendant institutes the suit in compliance with the order, the Revenue Court shall dispose of the suit or application pending before it in accordance with the final decision of the Civil Court of First Instance or Appeal, as the case may be, upon such question of title.

(3) If the Revenue Court decides to determine such question of title itself, it shall follow the procedure laid down in the <sup>1</sup>Code of Civil Pro- XIV of 1882,  
cedure for the trial of suits, and, notwithstanding anything contained in section 193 of this Act, all the provisions of the said Code shall apply to the trial of such question of title.

Procedure in  
appeal in  
such case.

**200.** If any such question of title has been determined by a Revenue Court, and is a matter in issue in appeal in the Court of the District Judge or the High Court, and such Appellate Court has not before it all the materials necessary for the determination of such question of title, it may either—

(a) remand the case to the Revenue Court, or

(b) frame issues with respect to such question of title, and refer them for trial to any subordinate Civil Court of competent jurisdiction.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

**201.** (1) If in any suit instituted under the provisions of Chapter XI the plaintiff is not recorded as having the proprietary right entitling him to institute such suit, and the defendant pleads that the plaintiff has not such proprietary right, the Court shall proceed, *mutatis mutandis*, as directed in section 199: Procedure when plaintiff's title in suit under Chapter XI denied.

Provided that, if the Court adopts the procedure allowed by clause (a) of sub-section (1) of that section, the plaintiff shall be the party required to institute a suit in the Civil Court.

(2) The provisions of section 200 shall apply, *mutatis mutandis*, to any appeal in such suit.

(3) If the plaintiff is recorded as having such proprietary right, the Court shall presume that he has it;

but nothing in this sub-section shall affect the right of any person to establish by suit in the Civil Court that the plaintiff has not such proprietary right.

#### *Questions of Tenant Right in Civil Court.*

**202.** (1) If in any suit relating to an agricultural holding instituted in a Civil Court the defendant pleads that he holds such land as the tenant of the plaintiff, or of a person in possession holding from the plaintiff, the Civil Court shall, by order in writing, require the defendant to institute, within three months, a suit in the Revenue Court for the determination of such question. When Civil Court to refer party to Revenue Court.

(2) If the defendant fails to comply with the order, the Court shall decide such question against him. If the defendant institutes the suit in compliance with the order, the Civil Court shall dispose of the suit pending before it in accordance with the final decision of the Revenue Court of First Instance or Appeal, as the case may be, upon such question.

### CHAPTER XV.

#### POWER TO MAKE RULES.

**203.** The Local Government may, after previous publication, make rules consistent with this Act— Power of Local Government to make rules.

- (a) for the guidance of officers in the determination, enhancement and abatement of rent;
- (b) for the guidance of officers under section 52;
- (c) as to the attestation of leases, counterparts or agreements under section 97;
- (d) as to the dates on which instalments of rent shall fall due and profits shall be divisible;
- (e) as to the fees payable under this Act;

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<sup>1</sup> For rules under s. 203, see U. P. Local Rules and Orders.

(f) as to the procedure to be followed in applications under this Act;

(g) as to the transfer of cases by Revenue Courts; and

(h) generally for giving effect to the provisions of this Act.

All such rules shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

Power of  
Board to  
make rules

204. The Board, with the previous sanction of the Local Government, and after previous publication, may, from time to time, make rules consistent with this Act and with the rules (if any) made thereunder by the Local Government for the guidance of all persons in matters connected with the enforcement of this Act.

### THE FIRST SCHEDULE.

(See section 1.)

AREAS EXCEPTED, IN THE FIRST INSTANCE, FROM THE OPERATION OF THE ACT.

I.—The Kumaun Division, consisting of the districts of Naini Tal, Almora and Garhwal.

II.—The portion of the Mirzapur District lying to the south of the Kaimur Range.

1\* \* \* \*

IV.—The tract of country known as Jaunsar-Bawar in the Dehra Dun district.

### THE SECOND SCHEDULE.

(See section 2.)

#### ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
XII of 1881 . . .	The North-Western Provinces Rent Act, 1881.	The whole.
XIV of 1886 . . .	The North-Western Provinces Rent Act, 1886.	The whole.
IX of 1887 . . .	The Provincial Small Cause Courts Act, 1887.	So much of the First Schedule as relates to Act XII of 1881.
VI of 1888 . . .	The Debtors Act, 1888.	Section 10, sub-section (2).
XX of 1890 . . .	The North-Western Provinces and Oudh Act, 1890.	Section 63, in so far as it relates to Act XII of 1881.
XII of 1891 . . .	The Repealing and Amending Act, 1891.	So much of Part I of the First Schedule as relates to Act XIV of 1886.

<sup>1</sup> The third item relating to the Family Domains of the Maharaja of Benares was repealed by s. 2 and Schedule of the Pargana of Kaswar Raja Act, 1915 (U. P. Act 6 of 1915), *infra*.

<sup>2</sup> Genl. Acts, Vol. IV.

<sup>3</sup> Act 6 of 1888 has since been repealed by Act 10 of 1914, Genl. Acts, Vol. VIII.

<sup>4</sup> *Supra*, Vol. I.



## THE THIRD SCHEDULE.

(See section 96.)

## FORM OF LEASE OR COUNTERPART.

I,  $\frac{A. B.}{F. G.}$  son of  $\frac{C. D.}{H. I.}$  resident of  $\frac{E.}{J.}$ , have  $\frac{\text{leased}}{\text{taken on lease}}$  the undermen-  
tioned land  $\frac{\text{to F. G.}}{\text{from A. B.}}$ , son of  $\frac{H. I.}{C. D.}$  resident of  $\frac{J.}{E.}$ , in mahál K, mouza L

(Here adequately describe the holding)

at an annual rent of Rs. (     ), payable in the following instalments  
and on the following dates, namely:—

(     ) Rs. on the (     ) day of (     )

(     ) Rs. on the (     ) day of (     )

(     ) Rs. on the (     ) day of (     )

(     ) Rs. on the (     ) day of (     )

the period of the lease being for (     ) years, that is to say, from  
(date)     to     (date)     .

Dated the (     ) day of (     ) , 19     .

{	Signed	}	A. B., landholder.
	or marked		F. G., tenant.

(Witness, if marked) M. N.

## THE FOURTH SCHEDULE.

(See sections 167, 169, 170, 171, 172.)

## GROUP (A)—SUITS.

[Suits triable, when not exceeding Rs. 100 in value, by Assistant Collector of Second Class—appeal to Collector; when exceeding Rs. 100 in value by Assistant Collector of First Class—appeal to Civil Court.]

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
1	76	For an adjudication as to the price of crops or other products which the landholder has elected to purchase under section 75.	Fifteen days .	When the ejectment takes effect.	As in the Court-fees Act, 1870 <sup>1</sup> .
2	102	For arrears of rent, or where rent is paid in kind for the money equivalent of such rent.	Three years .	When the arrears become due.	Ditto.
3	110	For compensation for refusing to deliver receipt for rent paid, or to credit the rent paid as requested by the tenant.	Three months.	The date of the refusal .	Ditto.
4	142	To contest a distraint. . . . .	As in section 142 .	As in section 142 .	Ditto.
5	145	To recover compensation for distraint and sale of property.	Three months.	The date on which the sale takes place. . . . .	Ditto.
6	146	For compensation for wrongful acts of distrainer.	Ditto .	The date on which the right to sue accrues.	Ditto.
7	147(2)	For recovery of the amount realised from a sub-tenant by proceedings in distraint.	Ditto .	The date of realisation .	Ditto.

8	159	By a lambardar to recover from a co-sharer arrears of revenue, village-expenses and other dues.	Three years . . .	When the arrears become due	Ditto.
9	160	By a co-sharer to recover from a co-sharer who defaults arrears of revenue paid by the plaintiff on account of the defendant.	Ditto . . .	When the arrears are paid .	Ditto.
10	161	By a musafidar or assignee of revenue for arrears of revenue due to him as such.	Ditto . . .	When the arrears become due	Ditto.
11	162	By a talukdar or other superior proprietor for arrears of revenue or rent due to him as such.	Ditto . . .	Ditto .	Ditto.

THE FOURTH SCHEDULE—*contd.*

## GROUP (B)—SUITS.

[Suits triable by Assistant Collector of First Class in which appeal (if any) lies to Civil Court.]

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
12	36	For compensation for rent or produce exacted in excess of rent lawfully payable.	Three months.	The date of the exaction .	As in the Court-fees Act, 1870. <sup>1</sup>
13	63	For the ejectment of a tenant on the ground specified in clause (b) or (c) of section 57.	One year	When the forfeiture is incurred, or the condition is broken.	Ditto.
14	65	For an injunction, or for the repairs of damage or waste, or for compensation.	Ditto .	When the damage is done, or the waste begins, or the condition is broken.	Ditto.
15	103	For compensation for extortion of payment of rent.	Ditto .	The date of the extortion .	Ditto.
16	164	By a co-sharer against a lambardar for his share of the profits of a mahal, or of any part thereof.	Three years .	When the share of the profits becomes payable.	Ditto.
17	165	By a co-sharer against a co-sharer for a settlement of accounts and his share of the profits of a mahal, or of any part thereof.	Ditto .	Ditto . . .	Ditto.

<sup>1</sup> Genl. Acts, Vol. II.

THE FOURTH SCHEDULE—*contd.*

## GROUP (C)—SUITS.

[Suits triable by Assistant Collector of First Class in which appeal lies to Revenue Court.]

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
18	31(2)	For the cancellation of an illegal sub-lease or other transfer, or for the ejectment of the tenant and the sub-lessee or other transferee, or both.	One year	The date on which the illegal sub-lease or other transfer was made.	As in the Court-fees Act, 1870. <sup>1</sup>
19	31(3)	For the cancellation of an illegal agreement to sub-let or otherwise transfer.	Ditto	When the illegal agreement becomes known to the plaintiff.	Ditto.
20	40(1)	For the enhancement of the rent of a fixed-rate tenant.	None	None	Ditto.
21	40(2)	For the abatement of the rent of a fixed-rate tenant.	Ditto	Ditto	Ditto.
22	42(1)	For the enhancement of the rent of an proprietary tenant.	Ditto	Ditto	Ditto.
23	42(2)	For the abatement of the rent of an proprietary tenant.	Ditto	Ditto	Ditto.
24	43(1)	For the enhancement of the rent of an occupancy tenant.	Ditto	Ditto	Ditto.
25	43(2)	For the abatement of the rent of an occupancy tenant.	Ditto	Ditto	Ditto.

<sup>1</sup> Genl. Acts, Vol. II.

THE FOURTH SCHEDULE—*contd.*GROUP (C)—Suits—*concl'd.*

[Suits triable by Assistant Collector of First Class in which appeal lies to Revenue Court.]

Serial number.	Section of Act.	Description of suit.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
26	48	For the enhancement of the rent of a non-occupancy tenant.	None . .	None . . .	The same as in the case of an occupancy tenant under the Court-fees Act, 1870. <sup>1</sup>
27	48	For the abatement of the rent of a non-occupancy tenant.	Ditto	Ditto . . .	As in the Court-fees Act, 1870. <sup>1</sup>
28	49	For the avoidance of a lease for period exceeding term of landholder's engagement with the Local Government.	Ditto	When the term of landholder's engagement expires.	According to the amount of the rent payable under the lease.
29	63	For the ejectment of a non-occupancy tenant on the grounds specified in section 58	Ditto	None . . .	According to the amount of the rent payable by the tenant.
30	79	For the recovery of the possession of a holding, or for compensation, or both.	Six months . .	When the wrongful dispossession takes place.	As in the Court-fees Act, 1870. <sup>1</sup>
31	79	For compensation for an improvement brought after a suit for recovery of possession has failed as regards reinstatement of the tenant.	Three months .	The date of the decree refusing reinstatement of the tenant.	According to the amount of the rent payable by the tenant.

		For compensation for ejectment under a decree or order subsequently reversed.	Six months . . .	The date on which the decree or order is reversed.	As in the Court-fees Act, 1870. <sup>1</sup>
32	80				
33	86	To set aside a notice of surrender . . .	Fifteen days . . .	The date of the receipt or service of the notice.	Eight annas.
34	95	For a declaration as to any matter specified in section 95.	None	None . . . . .	Ditto
35	96	For a lease or counterpart . . . . .	Ditto	Ditto . . . . .	As in the Court-fees Act, 1870. <sup>1</sup>
36	150 154	For the resumption of a rent-free grant . . .	As in section 154 . . .	As in section 154 . . .	According to the annual letting value of the land as estimated by the plaintiff.
37	150 156	For the assessment to rent of a rent-free grant.	None . . . . .	None . . . . .	Ditto.
38	150 458	For the assessment to revenue of a rent-free grant.	Ditto . . . . .	Ditto . . . . .	Ditto.

THE FOURTH SCHEDULE—*contd.*

## GROUP (D)—APPLICATIONS.

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
39	59	For the ejectment of a tenant on the ground specified in clause (a) of section 57.	The period allowed for executing the decree.	Date of the final decree in the case.	Eight annas,
40	85	For the service of a notice of surrender under section 83 or 84.	As in section 85.	As in section 85.	Nil.
41	93	For permission to give compensation otherwise than by payment of money for an improvement made by a tenant.	As in section 93 (5)	As in section 93 (5)	As in the Court-fees Act, 1870. <sup>1</sup>
42	94	For decision as to whether a work is an improvement, or as to right to make it.	None	None	Ditto.
43	105	For the deputation of an officer to make division, estimate or appraisement of produce or crop.	Ditto	Ditto	Ditto.
44	111	For permission to deposit rent	Ditto	Ditto	Ditto.
45	117	For payment or refund of rent deposited under section 111.	Ditto	Ditto	Ditto.
46	126	For assistance to distrainer against resistance or apprehension of resistance.	Ditto	Ditto	Ditto.
47	...	For the execution of a money decree under this Act, or under any enactment repealed by this Act, not being a decree for a sum of money exceeding Rs. 500, inclusive of the costs of executing such decree, but exclusive of any interest which may have accrued after decree upon the sum decreed.	Three years	The date of the final decree of the case.	Ditto.



4	...	For the execution of such a decree when exceeding Rs. 500.	The period allowed for the execution of a decree of the Civil Court.	As in the case of a decree in the Civil Court.	Ditto.
49	...	For the execution of any decree other than a money decree.	One year . . .	The date of the final decree in the case.	Ditto.
50	183 & 184	For the review of judgment . . .	Ninety days . . .	The date of the decree or order.	Ditto.
51	186	For revision . . .	None . . .	None . . .	Ditto.

THE FOURTH SCHEDULE--*concl'd.*

## GROUP (E)—APPEALS.

[*Appeals to Revenue Courts.*]

Serial number.	Section of Act.	Description of appeal.	Period of limitation.	Time from which period begins to run.	Proper court-fee.
52	...	To a Collector . . . . .	Thirty days . . . . .	The date of the decree or order appealed against.	As in the Court-fees Act. 1870. <sup>1</sup>
53	...	To a Commissioner . . . . .	Sixty days . . . . .	Ditto . . . . .	Ditto
54	...	To the Board . . . . .	Ninety days . . . . .	Ditto . . . . .	Ditto

<sup>1</sup> Genl. Acts, Vol. II.

# THE UNITED PROVINCES LAND REVENUE ACT, 1901.

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 THE FIRST SCHEDULE.

## THE SECOND SCHEDULE.

UNITED PROVINCES ACT III OF 1901.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[24th October, 1901 : 19th December, 1901.]

An Act to consolidate and amend the law relating to Land Revenue and the jurisdiction of Revenue Officers in the North-Western Provinces and Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to land-revenue and the jurisdiction of Revenue Officers in the North-Western Provinces and Oudh: It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title, extent  
and com-  
mencement.

**1.** (1) This Act may be called the <sup>2</sup>North-Western Provinces and Oudh Land Revenue Act, 1901.

(2) It extends, in the first instance, to all the territories for the time being administered by the <sup>3</sup>Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, except the areas specified in the First Schedule:

<sup>4</sup>[Provided that] the Local Government may, by notification in the Gazette, extend<sup>5</sup> the whole or any part of this Act to all or any of the areas so excepted:

<sup>1</sup> For Statement of Objects and Reasons, see North-Western Provinces and Oudh Gazette, 1899, Pt. V, p. 225; for first Report of the Select Committee, see *ibid.*, 1901, dated 22nd June, p. 161; for second Report of the Select Committee, see *ibid.*, p. 172, and for Proceedings in Council, see *ibid.*, 1899, Pt. VI, p. 399; *ibid.*, 1900, p. 341; *ibid.*, 1901, Pt. V, dated 2nd November, pp. 252 and 254.

The Act has been extended under sections 5 and 5A of the Scheduled Districts Act, 1874 (14 of 1874), to the Almora, Garhwal and Naini Tal districts (inclusive of the settled tracts of the Tarai sub-division) which correspond to the Scheduled District of Kumaon and Garhwal, see Appendix, Vol. III

<sup>2</sup> Read now the United Provinces Land Revenue Act, 1901, see the United Provinces General Clauses Act, 1904 (U. P. Act 1 of 1904), s. 28 (2), *infra*.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> These words were substituted for the words and figures "but, subject to the provisions of Bengal Regulation VII of 1828," by s. 3 of the Pargana of Kaswar Raja Act, 1915 (U. P. Act 6 of 1915), *infra*.

<sup>5</sup> For notifications extending the Act or portions of the Act, see the U. P. Local Rules and Orders.

U. P. Act  
VI of 1915.

<sup>1</sup>[Provided also that no provision of this Act which is inconsistent with the provisions of the Pargana of Kaswar Raja Act, 1915,<sup>2</sup> shall apply to the Pargana of Kaswar Raja in the district of Benares] and

(3) It shall come into force on the first day of January 1902.

2. (1) The enactments specified in the Second Schedule are repealed Repeal to the extent mentioned in the third column thereof.

(2) When this Act or any portion thereof is extended to any of the areas excepted in the First Schedule, so much of any Act or Regulation in force therein as is inconsistent with this Act, or the portion thereof so extended, as the case may be, shall be thereby repealed.

(3) The repeal of any enactment by this Act shall not legalize any practice which immediately before the passing of such enactment was illegal, and shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. (1) All rules, appointments, assessments, partitions, and transfers Savings made, notifications, proclamations~~s~~ and orders issued, authorities and powers conferred, farms granted, records-of-rights and other records framed, rights acquired and liabilities incurred, rents fixed, places and times appointed, and other things done under any of the enactments hereby repealed shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, acquired, incurred, fixed, appointed and done under this Act.

(2) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act, or to the corresponding portion thereof.

4. In this Act, unless there be something repugnant in the subject or Definitions. context,—

(1) "Board" means the Board of Revenue:

(2) "Incumbrance" means a charge upon or claim against land arising out of private contract:

(3) "Lambardar" means a co-sharer of a mahal appointed under this Act to represent all or any of the co-sharers in that mahal:

(4) "Mahal" means—

(a) any local area held under a separate engagement for the payment of the land revenue: Provided that—

(z) if such area consists of a single village or portion of a village, a separate record-of-rights has been framed for such village or portion;

<sup>1</sup> This proviso was inserted by s. 3 of the Pargana of Kaswar Raja Act, 1915 (U. P. Act 6 of 1915), *infra*.

<sup>2</sup> *Infra*.

(ii) if such area consists of two or more villages or portions of villages a separate record-of-rights has been framed either for the entire area, or for each of the villages or portions of villages included therein;

(b) any revenue-free area for which a separate record-of-rights has been framed;

(c) for such purposes as the Local Government may determine, any grant of land made heretofore or hereafter under the waste land rules, and

(d) any other local area which the Local Government may by general or special order declare to be a mahal:

(5) "Minor" means a person who, under section 3 of the <sup>1</sup>Indian IX of 1875. Majority Act, 1875, has not attained his majority:

(6) "Rent" and "tenant" shall have the same meaning as they have in the <sup>2</sup>North-Western Provinces Tenancy Act, 1901, or the <sup>3</sup>Oudh U. P. Act II of 1901. Rent Act, 1886, as the case may be: XXII of 1886.

(7) "Revenue" means land-revenue:

(8) "Revenue Court" means all or any of the following authorities (that is to say), the Board and all members thereof, Commissioners, Additional Commissioners, Collectors, Assistant Collectors, Settlement Officers, Assistant Settlement Officers, Record Officers, and Assistant Record Officers and Tahsildars:

(9) "Revenue Officer" means any officer employed under this Act in maintaining revenue records, or in the business of the land-revenue:

(10) "Revenue-free," when applied to land, means land whereof the revenue has either wholly or in part been released, compounded for, redeemed or assigned:

(11) "Settlement" means settlement of the land-revenue:

(12) "Sir" means in the North-Western Provinces—

(a) land recorded as sir in the last record-of-rights framed before the commencement of this Act and continuously so recorded since, or which but for error or omission would have been so continuously recorded; or

(b) land cultivated continuously for twelve years immediately before the commencement of this Act by the proprietor him-

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> *Supra*. Read now the Agra Tenancy Act, see the United Provinces General Clauses Act, 1904 (U. P. Act I of 1904), s. 28 (2), *infra*.

<sup>3</sup> *Supra*, Vol. I.

self with his own stock, or by his servants, or by hired labour; or

- (c) land recognised by village custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers:

Provided that land which is sir under sub-clauses (a), (b), or (c) shall cease to be sir when it becomes the subject of an ex proprietary tenancy:

Provided also that if an ex-proprietary tenant regains his proprietary right in the land held by him as ex-proprietary tenant, the land mentioned in the first proviso shall again become his sir:

(13) "Sir" means in Oudh—

- (a) land which for the seven years immediately preceding the passing of the <sup>1</sup>Oudh Rent Act, 1886, had been continuously dealt with as sir in the distribution of proprietary or under-proprietary profits and charges;

- (b) land which for the seven years immediately preceding the passing of the said Act had been continuously cultivated by the proprietor or under-proprietor himself, or by his servants, or by hired labour:

Provided that land which was recorded as sir at the last settlement prior to the passing of the <sup>1</sup>Oudh Rent Act, 1886, and has been continuously so recorded since shall be presumed to be land of the class mentioned in sub-clause (a) till the contrary is proved:

Provided also that land which is sir under sub-clauses (a) or (b) shall cease to be sir when it becomes the subject to an ex-proprietary tenancy:

Provided further that if an ex-proprietary tenant regains his proprietary right in the land held by him as ex-proprietary tenant, the land mentioned in the second proviso shall again become his sir.

(14) "Taluka" or "Taluqdari Mahal" means an estate in Oudh to which the provisions of the <sup>1</sup>Oudh Estates Act, I of 1869, apply; and

"Taluqdar" means the proprietor of such an estate:

(15) "Under-proprietor" means in Oudh a person possessing a heritable and transferable right in land who is, or but for a judicial decision or contract would be, liable to pay rent therefor.

<sup>1</sup> *Supra*, Vol. I.

XXII of  
1886.

XXII of  
1886.

## CHAPTER II.

## APPOINTMENTS AND JURISDICTION.

Chief controlling revenue authority.

5. The control of all matters connected with the land-revenue in the North-Western Provinces and Oudh is vested in the Board, subject to the orders of the Local Government.

Appointment and removal of members of the Board.

6. The Local Government shall appoint, and may remove, the members of the Board.

Power to distribute business.

7. (1) Subject to such rules or orders as the Local Government may prescribe or issue, the Board may distribute its business and make such territorial division of its jurisdiction amongst its members as to the Board may seem fit.

(2) All orders made or decrees passed by a member of the Board in accordance with such distribution or division shall be held to be the orders or decrees (as the case may be) of the Board.

Alteration or reversal of a judicial order.

8. No decree or order in a judicial proceeding coming under the consideration of the Board on appeal, or a reference under section 218, or in revision under section 219, shall be altered or reversed without the concurrent judgment of two members of the Board.

Reference to Local Government in case of difference of opinion.

9. When the members of the Board are equally divided in opinion as to any order to be made in the course of its non-judicial business, the question regarding which there is such division of opinion shall be referred for decision to the Local Government.

Power to authorise member to exercise power of Board.

10. Notwithstanding anything contained in this Act, the Local Government may authorise any member of the Board to perform or exercise, either generally or in respect of any particular locality, all or any of the duties and powers imposed and conferred on the Board.

Power to create, alter, and abolish divisions, districts, tahsils and sub-divisions.

11. (1) The Local Government may, with the previous sanction of the Governor General in Council, <sup>2</sup>create new or abolish existing divisions or districts.

(2) The Local Government may <sup>2</sup>alter the limits of any division, district, or tahsil, and may create new or abolish existing tahsils, and may divide any district into sub-divisions, and may alter the limits of sub-divisions.

(3) Subject to the orders of the Local Government under sub-section (2), all tahsils shall be deemed to be sub-divisions of districts.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>2</sup> For notifications under s. 11, see the U. P. Local Rules and Orders.



12. The Local Government shall appoint in each division a Commissioner, who shall within his division exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and who shall, subject to the control of the Board, exercise authority over all the revenue officers in his division.

13. (1) The Local Government may <sup>1</sup> \* \* \* appoint an Additional Commissioner in a division, or in two or more divisions combined.

(2) An Additional Commissioner shall hold his office during the pleasure of the Local Government.

(3) An Additional Commissioner shall exercise such powers and discharge such duties of a Commissioner in such cases or classes of cases as the Local Government or, in the absence of orders from the Local Government, the Commissioner concerned, may direct.

(4) This Act and every other law for the time being applicable to a Commissioner shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3), as if he were the Commissioner of the division.

14. The Local Government shall appoint in each district an officer who shall be the Collector of the district, and who shall, throughout his district, exercise all the powers and discharge all the duties conferred and imposed on a Collector by this Act or any other law for the time being in force.

<sup>2</sup>[14A. (1) The Local Government may appoint an Additional Collector in a district or in two or more districts combined.

(2) An Additional Collector shall hold his office during the pleasure of the Local Government.

(3) An Additional Collector shall exercise such powers and perform such duties of a Collector in such cases or classes of cases as the Local Government or, in the absence of orders from the Local Government, the Commissioner concerned, may direct.

(4) This Act and every other law for the time being applicable to a Collector shall apply to every Additional Collector, when exercising any powers or discharging any duties under sub-section (3), as if he were the Collector of the district.]

15. (1) The Local Government <sup>3</sup>may appoint to each district as many other persons as it thinks fit to be Assistant Collectors of the first or second class.

(2) All such Assistant Collectors, and all other revenue officers in the district, shall be subordinate to the Collector.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>2</sup> S 14A was inserted by s. 2 of U. P. Act 3 of 1920, *infra*, Vol. III.

<sup>3</sup> For notifications making appointments under s. 15, see the U. P. Local Rules and Orders.

Suspension  
or removal of  
officers.

16. The Local Government may suspend or remove any officer appointed under section 12, 13, 14 or 15.

Tahsildars  
and Naib  
Tahsildars.

17. The Local Government may appoint to each district as many persons as it may think fit to be Tahsildars and Naib Tahsildars, and may suspend or remove such officers or any of them, or it may delegate its power of appointing, suspending, or removing them subject to such rules as the Local Government may prescribe.

Assistant Col-  
lector in  
charge of sub-  
division of  
district.

18. (1) The Local Government may place any Assistant Collector of the first class in charge of one or more sub-divisions of a district, and may remove him therefrom.

(2) Such Assistant Collector shall be called an Assistant Collector in charge of a sub-division of a district, and shall exercise all the powers and discharge all the duties conferred and imposed upon him by this Act, or by any other law for the time being in force, subject to the control of the Collector.

(3) The Local Government may delegate its powers under this section to the Collector of the district, and may revoke such delegation.

Subordination  
of Revenue  
Officers.

19. Every Revenue Officer of a sub-division of a district shall be subordinate to the Assistant Collector (if any) in charge of such sub-division, subject to the general control of the Collector.

Collector of  
the district in  
case of tem-  
porary va-  
cancy.

20. If the Collector dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Collector under this Act until the Local Government appoints a successor to the Collector so dying or disabled, and such successor takes charge of his appointment.

### CHAPTER III.

#### MAINTENANCE OF MAPS AND RECORDS.

##### (A) *Kanungos and Patwaris.*

Power to  
form and  
alter pat-  
waris' circles.

21. The Collector, with the previous sanction of the Board, may arrange the mahals of the district in patwaris' circles, and may, from time to time, alter the number and limits of such circles.

But no such arrangement or alteration shall be final unless and until it has been sanctioned by the Board.

Salaries of  
patwaris.

22. The salaries of the patwaris shall, from time to time, be fixed by the Collector subject to the orders of the Board.

Appointment,  
removal, and  
dismissal of  
patwaris.

23. (1) The Collector shall as hereinafter provided appoint a patwari to each circle, and, notwithstanding anything hereinafter contained, may, subject to rules made under section 234, order the removal or dismissal of patwaris.

<sup>1</sup> For notification delegating powers under s. 18 (3) to Collectors of districts, see the U. P. Local Rules and Orders.

(2) The Collector may transfer a patwari from one circle to another in the following cases only:—

- (a) in connection with an alteration of circles under section 21;
- (b) with the consent of the persons who, in the circle to which the transfer is made, have the right of nomination under section 24 (1).

24. (1) Whenever a circle is without a patwari, the lambardars, or, if there are no lambardars, the proprietors of such circle or their representatives in interest, shall nominate a person to be the patwari of the circle, and, subject to the provisions of sub-sections (5) and (6), that person shall be appointed. Nomination and appointment of patwaris to fill vacancies.

(2) In case of disagreement as to the nominee the Collector shall ascertain the local custom (if any) and subject as aforesaid shall appoint the person nominated in accordance therewith.

(3) Where no such custom can be ascertained, the Collector shall appoint a qualified person to be the patwari, whether such person has been nominated or not.

(4) If an estate is held under direct management, or if the proprietor of an estate is under the superintendence of the Court of Wards, the Collector in charge shall be deemed to be the proprietor for the purpose of nominating a patwari under this section.

(5) If the persons in whom the nomination is vested neglect to nominate a successor to the patwari within fifteen days from the occurrence of the vacancy, the Collector shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of the notice, the Collector shall make the appointment.

(6) If the persons in whom the nomination is vested neglect to follow the local custom in making such nomination, or nominate a person not qualified to perform the duties of a patwari, or not fitted in the Collector's opinion to perform such duties, then the Collector shall refuse to appoint the nominee, and, if no fit person is nominated within fifteen days from the date of the notification of such refusal, shall himself appoint a person to the vacant office.

25. One or more kanungos may, subject to rules made under section 234, be appointed in each district for the proper supervision, maintenance, and correction of the annual registers, and for such other duties as the Board may from time to time prescribe. Appointment of kanungos.

26. The salaries of the kanungos shall, from time to time, be fixed by the Board under the orders of the Local Government. Amount of kanungos salaries.

27. Every kanungo and patwari, and every person appointed temporarily to discharge the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code, and all Kanungos and patwaris to be public servants.

and their records public records. official records and papers kept by any such officer shall be held to be public records and the property of Government.

(B) *Maps.*

Maintenance of map and field-book.

28. The Collector shall, in accordance with rules made under section 234, maintain a map and field-book of each village in his district, and shall cause annually, or at such longer intervals as the Board may prescribe, to be recorded therein all changes in the boundaries of each village, mahal or field, and shall correct any errors which are shown to have been made in such map or field-book.

Obligations of owners as to boundary marks.

29. All owners of villages, mahals or fields are bound to maintain and keep in repair, at their own cost, the permanent boundary marks lawfully erected thereon, and the Collector may at any time order such owners—

(a) to erect proper boundary marks on such villages, mahals or fields;

(b) to repair or renew in such form and material as he may prescribe all boundary marks lawfully erected thereon.

If such order is not complied with within thirty days from the communication thereof, the Collector shall cause such boundary marks to be erected, repaired or renewed, and shall recover the charges incurred from the owners concerned in such proportion as he thinks fit.

*Explanation.*—The term “owners” in this and the following section includes also under-proprietors, lessees, mortgagees or other persons in possession of the land referred to.

Penalty for injury to, or removal of, marks.

30. The Collector may order any person convicted before him of wilfully erasing, removing or damaging a boundary or survey mark to pay such sum, not exceeding fifty rupees, for each mark so erased, removed or damaged as may be necessary to restore it, and to reward the informer through whom the conviction was obtained. When such sum cannot be recovered, or if the offender cannot be discovered, the Collector shall restore the mark and recover the cost thereof from such of the owners of the conterminous villages, mahals or fields as he thinks fit.

(C) *Registers.*

Registers of revenue-paying and revenue-free mahals.

31. The Collector shall prepare and maintain—

(a) a list of all revenue-paying mahals, specifying the revenue assessed on each and the lambardar or other person through whom it is payable;

(b) a list of all revenue-free mahals, specifying the authority and conditions under which they are exempt from the payment of revenue.

**32.** There shall be a record-of-rights for each mahal or, if a mahal <sup>Record-of-</sup> consists of two or more villages, or portions of villages, the record may be <sup>rights</sup> prepared for each such village or portion separately.

The record-of-rights shall include the following registers:—

- (a) a register of all the proprietors in the mahal, including the proprietors of specific areas, specifying the nature and extent of the interest of each;
- (b) in Oudh, for all mahals or pattis held in sub-settlement or under a heritable non-transferable lease, the rent payable under which has been fixed by the Settlement Officer or other competent authority, a register of all the under-proprietary co-sharers or co-lessees, specifying the nature and extent of the interest of each of them;
- (c) in Oudh, a register of all other under-proprietors in a mahal, and all other lessees whose rents have been fixed by a Settlement Officer, or other competent authority, specifying the nature and extent of the interest of each of them;
- (d) a register of all persons holding land revenue-free, specifying the nature and extent of the interest of each;
- (e) a register of all persons cultivating or otherwise occupying land specifying the particulars required by section 55.

Until a new record-of-rights is framed under section 53, the existing record-of-rights shall be the record-of-rights prescribed by this section.

*Explanation.*—In this section the words “proprietor” and “under-proprietor” include a person in possession of proprietary or under-proprietary rights under a mortgage or lease.

**33.** (1) The Collector shall maintain the record-of-rights, and for <sup>The annual</sup> that purpose shall annually, or at such longer intervals as the Board may <sup>registers.</sup> prescribe, cause to be prepared an amended set of the registers enumerated in section 32.

The registers so prepared shall be called the annual registers.

(2) The Collector shall cause to be recorded in the annual registers all changes that may take place and any transaction that may affect any of the rights or interests recorded,

and shall therein correct any errors proved to have been made in the record-of-rights or in any annual register previously prepared.

(3) No such change or transaction affecting the registers prescribed by clauses (a) to (d) of section 32 shall be recorded without the order of the Collector, or, as hereinafter provided, of the Tahsildar.

**34.** (1) Every person obtaining possession, by succession or transfer, <sup>Report of</sup> of any proprietary or other right in a mahal, or part of a mahal, or the <sup>succession or</sup> profits thereof, or in any specific area therein, which is required to be <sup>transfer of</sup> recorded in the registers prescribed by clauses (a) to (d) of section 32, <sup>possession.</sup>

shall report such succession or transfer to the Tahsildar of the tahsil in which the mahal or any part thereof is situated.

(2) In the case of a succession or transfer, other than a mortgage or lease, the report shall be made immediately after it has taken place.

(3) In the case of a mortgage or lease, the report shall be made immediately after the mortgagee or lessee has obtained possession thereunder.

(4) If the person so succeeding, or otherwise obtaining possession is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the report required by this section.

(5) No Revenue Court shall entertain a suit or application by the person so succeeding or otherwise obtaining possession until such person has made the report required by this section.

Procedure  
in report.

35. The Tahsildar, on receiving such report, or upon the facts coming otherwise to his knowledge, shall make such inquiry as appears necessary, and in undisputed cases, if the succession or transfer appears to have taken place, shall record the same in the annual registers;

if the succession or transfer is disputed, the Tahsildar shall refer the case to the Collector, who shall dispose of it after deciding the dispute in accordance with the provisions of section 40.

Collector to  
specify land  
held by ex-  
proprietary  
tenant and  
its rent.

36. (1) When a right of occupancy has been created under the provisions of section 10 of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 7A of the <sup>2</sup>Oudh Rent Act, 1886, as the case may be, in favour of an ex-proprietary tenant, the Collector shall, in the course of the mutation proceedings under section 35, or, if more convenient, in a separate proceeding, pass an order specifying the land in which such occupancy right has been created, and fixing the rent payable therefor in accordance with the provisions of those sections.

U. P. Act II  
of 1901.  
XXII of  
1886.

(2) The rent so fixed shall be payable from the date the ex-proprietary tenancy arose, subject to the law of limitation as to arrears of rent, and, save as provided by section 41 of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 35B of the <sup>2</sup>Oudh Rent Act, 1886, shall not be liable to enhancement or abatement for a period of ten years, except by order of a Settlement Officer under section 87 of this Act.

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of 1901.  
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1886.

(3) If the case is one in which the Tahsildar would otherwise be empowered to order mutation of names under section 35, he shall refer it to the Collector.

(4) If for any reason an order specifying the land and fixing the rent payable has not been passed under sub-section (1), the landholder or tenant, or any co-sharer directly interested in such matter, may at any time during the continuance of an ex-proprietary tenancy apply for the issue of such order.

37. (1) The Local Government may prescribe proper fees for mutations in the registers: Power to prescribe fees for mutation.

Provided that no fee for a single mutation shall exceed one hundred rupees.

(2) Such fees shall be levied from the person in whose favour the mutation is made, and shall be expended in such manner as the Local Government thinks fit.

38. Any person neglecting to make the report required by section 34 within three months from the date of obtaining possession under a mortgage or lease, or from the date of the succession or other transfer, shall be liable to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section 37, or, when no fee is leviable, then not exceeding such amount as the Board may by rule prescribe. Fine for neglect to report.

39. (1) All transfers and changes affecting interests in land other than those referred to in section 34 shall be recorded according to rules made under section 234. Record of transfers of non-proprietary interests in land.

(2) No division of a holding occupied by two or more tenants, and no distribution of the rent payable in respect thereof, shall be recorded, unless the consent of the landholder and of all the tenants concerned has been attested before a Revenue Court or the kanungo.

(3) All disputed cases shall be reported to the Tahsildar, who shall make such inquiry as appears necessary, and shall submit his proceedings to the Collector, who, after such further inquiry as may be necessary shall, subject to the provisions of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or the <sup>2</sup>Oudh Rent Act, 1886, as the case may be, pass orders, and, if necessary, cause the annual registers to be amended.

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of 1901.  
XXII of 1886.

40. (1) All disputes regarding entries in the annual registers shall be decided on the basis of possession. Settlement of disputes as to entries in annual registers.

(2) If, in the course of inquiry into a dispute under this section, the Collector is unable to satisfy himself as to which party is in possession, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession.

(3) No order as to possession passed under this section shall debar any person from establishing his right to the property in any Civil or Revenue Court having jurisdiction.

41. (1) All disputes regarding boundaries shall be decided, as far as possible, on the basis of existing survey maps; but if this is not possible, the boundaries shall be fixed on the basis of actual possession. Settlement of boundary disputes.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

(2) If, in the course of an inquiry into a dispute under this section, the Collector is unable to satisfy himself as to which party is in possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the property within a period of three months previous to the commencement of the inquiry, the Collector—

(a) in the first case, shall ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession;

(b) in the second case, shall put the person so dispossessed in possession; and shall then fix the boundary accordingly.

termination  
of class  
tenant.

**42.** (1) In case of any dispute respecting the class or tenure of any tenant, the Collector shall decide according to the principles laid down in the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or the <sup>2</sup>Oudh Rent Act, 1886, as the case may be.

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of 1901.  
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1886.

(2) In the trial of disputes under this section, the Collector shall observe the procedure prescribed for the trial of cases of a similar kind under the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or for the trial of suits under the <sup>2</sup>Oudh Rent Act, 1886, as the case may be.

U. P. Act II  
of 1901.  
XXII of  
1886.

procedure  
when rent  
payable is  
disputed.

**43.** In case of any dispute regarding the rent payable by any tenant, the Collector shall not decide the dispute, but shall record as payable for the year to which the annual register refers the rent payable for the previous year, unless it has been enhanced or abated by an order or agreement under this Act, or the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or the <sup>2</sup>Oudh Rent Act, 1886, as the case may be.

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of 1901.  
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1886.

resumption  
of entries;  
and decisions  
binding on  
Revenue  
Courts.

**44.** All entries in the annual registers made under sub-section (3) of section 33 shall be presumed to be true until the contrary is proved; and, subject to the provisions of sub-section (3) of section 40, all decisions under sections 40, 41 and 42 shall be binding on all Revenue Courts in respect of the subject-matter of the dispute; but no such entry or decision shall affect the right of any person to claim and establish in the Civil Court any interest in land which requires to be recorded in the registers prescribed by clauses (a) to (d) of section 32.

appointment  
of lambar-  
dars.

**45.** (1) If during the currency of a settlement the office of lambar-dar in any mahal, or part of a mahal, becomes vacant, or if at any time the Collector decides that one or more additional lambar-dars should be appointed, he shall issue a proclamation calling on the co-sharers concerned to nominate a lambar-dar, and, subject to rules made under section 234, such nominee shall be appointed.

(2) If no nomination is made within one month from the issue of the notice, or if the nominee is not qualified or refuses to act, the Collector



may attach the mahal, or part thereof, and hold it under direct management until a qualified nominee is appointed.

The collections of the mahal, or part thereof, so attached shall be applied to the payment of the revenue, the cost of management, and any expenses with which the mahal, or part thereof, is chargeable, and any surplus shall be divided amongst the recorded co-sharers in proportion to their respective shares at such times as the profits are ordinarily divisible.

46. Any person whose rights, interests, or liabilities are required by any enactment for the time being in force, or by any rule made under any such enactment, to be entered in any official register by a kanungo or patwari, shall be bound to furnish, on the requisition of the kanungo or patwari or of any revenue officer engaged in compiling the register, all information necessary for the correct compilation thereof. Obligation to furnish information necessary for the preparation of records.

47. All maps, field-books and registers kept under this Act shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Local Government may prescribe. Inspection of records.

## CHAPTER IV.

### REVISION OF MAPS AND RECORDS.

48. If the Local Government thinks that, in any district or other local area, a general or partial revision of the records or a re-survey, or both, should be made, it shall publish a notification to that effect; Notification of record operations.

and every such local area shall be held to be under record or survey operations, or both, as the case may be, from the date of the notification until the issue of another notification declaring the operations to be closed therein. Effect of notification.

49. The Local Government may appoint an officer, hereinafter called the Record Officer, to be in charge of the record operations or the survey, or both, as the case may be, in any local area, and as many Assistant Record Officers as to it may seem fit, and such officers shall exercise all the powers conferred on them by this Act so long as such local area is under record or survey operations, as the case may be. Record Officers.

50. When any local area is under survey operations, the Record Officer may issue a proclamation directing all owners of villages, mahals and fields to erect, within fifteen days, such boundary marks as he may think necessary to define the limits of their villages, mahals or fields; and, in default of their compliance within the time specified in the proclamation, he may cause such boundary marks to be erected, and the Collector shall recover the cost of their erection from the owners. Powers of Record Officer as to erection of boundary marks.

*Explanation.*—The term “owners” in this section includes also under-proprietors, lessees, mortgagees, or other persons in possession of the land referred to.

Decision of  
dispute.

51. In case of any dispute concerning any boundaries, the Record Officer shall decide such dispute in the manner prescribed in section 41.

Records to be  
prepared in  
re-survey.

52. When any local area is under survey operations, the Record Officer shall prepare for each village therein a map and field-book, which shall thereafter be maintained by the Collector as provided by section 28, instead of the map and field-book previously existing.

Preparation  
of new record-  
of-rights.

53. When any local area is under record operations, the Record Officer shall frame, for each mahal therein, a record containing the registers enumerated in section 32 or such of them as the Local Government may direct, and the record or portion thereof so framed shall thereafter be maintained by the Collector, instead of the record or portion of the record previously maintained under section 33.

Attestation  
of entries and  
decision of  
disputes.

54. All undisputed entries in the record-of-rights shall be attested by the parties interested, and all disputes regarding such entries, whether taken up by the Record Officer of his own motion or upon application by any party interested, shall be disposed of by him in accordance with the provisions of sections 40, 41, 42 and 43.

Particulars  
to be stated  
in list of  
tenants.

55. The register of persons cultivating or otherwise occupying land prescribed by clause (e) of section 32 shall specify as to each tenant the following particulars:—

(a) the nature and class of his tenure as determined by the  
<sup>1</sup>North-Western Provinces Tenancy Act, 1901, or the  
<sup>2</sup>Oudh Rent Act, 1886, as the case may be;

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(b) the rent payable by the tenant;

(c) in the North-Western Provinces if he be a tenant without a right of occupancy, the number of completed years during which he has held the land then in his possession;

and, subject to rules made by the Board under section 234;

(d) any other condition of the tenure, whether contained in a written lease or otherwise.

The register shall also specify the proprietors or under-proprietors (if any) holding land as sir, or cultivating land not being sir, otherwise than as tenants, and shall state with respect to the latter class of land the number of completed years during which they have so cultivated.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

*Explanation.*—For the purposes of this section the year for which the register is prepared shall be reckoned as a completed year.

56. In the North-Western Provinces all cesses which are payable by tenants on account of the occupation of land and which are of the nature of rent payable in addition to the rent of tenants, or in lieu of which proprietary rights may be assigned under section 78, clause (b), shall be recorded by the Record Officer under the appellations by which they are known, and no cesses not so recorded shall be recoverable in any Civil or Revenue Court.

Cesses payable as rent to be recorded in N.-W. P.

57. All entries in the record-of-rights prepared in accordance with the provisions of this Chapter shall be presumed to be true until the contrary is proved; and all decisions under this Chapter in cases of dispute shall, subject to the provisions of sub-section (3) of section 40, be binding on all Revenue Courts in respect of the subject-matter of such disputes; but no such entry or decision shall affect the right of any person to claim and establish in the Civil Court any interest in land which requires to be recorded in the registers prescribed by clauses (a) to (d) of section 32.

Presumption as to entries.

## CHAPTER V.

### SETTLEMENT OF THE REVENUE.

58. (1) All land, to whatever purpose applied and wherever situate is liable to the payment of revenue to the Government, except such land as has been wholly exempted from such liability by special grant of, or contract with, the Government or by the provisions of any law for the time being in force.

Assessment of revenue.

(2) Revenue may be assessed on land, notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

(3) No length of occupancy of any land, nor any grant of land made by the proprietor, shall release such land from the liability to pay revenue.

Saving of liability for revenue.

59. Whenever the Local Government thinks that any district or other local area liable to be brought under settlement should be so brought, it shall publish a notification to that effect, and every such local area shall be held to be under settlement from the date of the notification until the issue of another notification declaring settlement operations to be closed therein.

Notification as to settlement.  
Settlement to be deemed in progress until closing notified.

Appointment  
and powers of  
Settlement  
Officers.

**60.** The Local Government may appoint an officer, hereinafter called the Settlement Officer, to be in charge of the settlement of any district or other local area, and as many Assistant Settlement Officers, as to it may seem fit; and such officers shall, while so employed, exercise the powers conferred upon them by this Act so long as such local area is under settlement.

Transfer of  
duties of Col-  
lector to  
Settlement  
Officer.

**61.** When a local area is under settlement the duty of maintaining the maps and field-books, and preparing the annual registers, may be transferred under the orders of the Board from the Collector to the Settlement Officer, who shall thereupon exercise all the powers conferred on the Collector by Chapter III.

Government  
to issue rules  
as to mode of  
assessment.

**62.** The Local Government shall \* \* \* make rules for the guidance of the Settlement Officer in assessing the revenue.

Rent-rates  
and proposals  
of assessment.

**63.** The Settlement Officer, in accordance with the rules made under section 62, shall select rent-rates for the purpose of assessment, and report them for the sanction of the Board, and on receipt of such sanction shall frame proposals of assessment and report them for the orders of the Board.

Declaration of  
assessment.

**64.** After the receipt of, and subject to, the orders of the Board on such proposals, the Settlement Officer shall declare the assessment of each mahal to the person with whom the settlement thereof is to be made.

If any mahal comprises two or more villages or portions of villages, the Settlement Officer shall declare the assessment of each such village or portion of village, and also the aggregate amount of the assessment of the whole mahal.

Such declaration shall be made at a time and place to be notified by the Settlement Officer.

With whom  
settlement to  
be made.

**65.** (1) Subject to the provisions of section 75, the settlement shall be made—

(a) in the case of a taluqdari mahal, with the taluqdar;

(b) in the case of other mahals, with the proprietor of the mahal, or when there are two or more proprietors, with the lam-bardars unless for special reasons the Settlement Officer decides to make the settlement with all the proprietors.

(2) If any taluqdar or other proprietor with whom settlement would otherwise have been made—

(a) has transferred possession of his mahal or share to a mortgagee, the settlement may be made with such mortgagee;

<sup>1</sup> The words "in accordance with general principles sanctioned by the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>2</sup> For rules under s. 62, see U. P. Local Rules and Orders.

- (b) is a lunatic, minor, or other person incapable of making a contract, the settlement shall be made on his behalf with his legal representative.

66. If the persons entitled to settlement agree to the assessment so declared, they and those whom they represent shall be liable to pay such assessment—

Effect of agreement to assessment declared.

- (a) if the term of the former settlement has not expired, from the date on which it expires;

- (b) if such term has expired, from the date of such agreement or from such subsequent date as the Board may direct;

and in mahals in which the land or part of the land is held in severalty, the Settlement Officer shall distribute such assessment on the land so held.

Distribution of assessment.

67. In any mahal where, by the established custom, the land or the amount of revenue payable by each sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of the co-sharers, enforce such re-distribution or re-adjustment according to such established custom.

Enforcement of custom as to re-distribution of land and adjustment of revenue shares.

68. If the person to be settled with refuses to accept the assessment declared by the Settlement Officer, or fails to accept such assessment within thirty days from the date of declaration by the Settlement Officer under section 64, the Settlement Officer shall report the case through the Commissioner to the Board,

Exclusion of person refusing or failing to accept settlement.

and the Board may direct that the person so refusing or failing be excluded from the settlement for such term, not exceeding fifteen years from the date of such direction, as the Board thinks fit,

and the Collector may, with the previous sanction of the Board, either farm the mahal or hold it under direct management during such term, or any part thereof, and shall pay to the person so excluded any annual allowance to which he may be entitled under section 74:

Provided that, if the mahal is a taluqdari mahal, the taluqdar shall not be excluded from the settlement of his entire mahal \* \* \* or \* \* \* of a portion thereof without the sanction of the Local Government.

69. If a taluqdar is excluded from the settlement of any portion of his taluqa under section 68, and if such portion is held in sub-settlement by an under-proprietor, the farm of such portion shall be offered to such under-proprietor on such terms as the Board may in each case direct.

Offer of farm to under-proprietor.

70. If such under-proprietor accepts the assessment so offered, the taluqdar so excluded shall be entitled to an allowance out of the profits of such portion to be fixed by the Board, not exceeding the share of the

Allowance to excluded taluqdars.

\* The words "without the previous sanction of the Governor General in Council" and the words "from the settlement" were omitted by s. 2 and Sch. I of Act 38 of 1920

gross assets, (if any) to which he would have been entitled had he accepted the assessment.

In other cases the taluqdar so excluded shall (subject to the orders of the Board) be entitled to an allowance out of the profits of such portion of not less than five or more than fifteen per cent. on the amount proposed to be assessed thereon.

Offer of settlement to excluded proprietor.

**71.** When the term fixed under section 68 expires, the Collector shall offer settlement of the mahal to the person then entitled to settlement at such assessment as the Board may direct for the remainder of the term of settlement of the local area in which the mahal is situated. If such person refuses to accept the offer, he may, with the sanction of the Board and subject to the provisions of section 68 as far as they are applicable, be excluded from settlement for such period not exceeding the remainder of the term of the settlement of the local area as the Board may direct.

Procedure in case of some of several proprietors refusing assessment.

**72.** If, in a mahal in which the land or a part of the land is held in severalty, the Settlement Officer has decided to make the settlement with all the proprietors under section 65, any co-sharer refuses or fails, within thirty days from the date of the declaration by the Settlement Officer under section 64, to accept the assessment so declared, the Settlement Officer may transfer the share of the person so refusing or failing, for a term not exceeding fifteen years, to all or any of the remaining co-sharers in the mahal who may be willing to accept the transfer. The co-sharers accepting the transfer shall pay to the proprietor any annual allowance to which he is entitled under section 74.

If no co-sharer accepts such transfer, the entire mahal shall be dealt with under section 68, as if all the co-sharers had refused or failed to accept the assessment.

Offer of share to co-sharer whose share has been transferred.

**73.** When the term fixed under section 72 expires, if the co-sharer whose share has been transferred then accepts the assessment declared by the Settlement Officer, the Collector shall put such co-sharer in possession of his share.

If such co-sharer does not so accept, the transfer shall be maintained for the remainder of the term of the settlement of the mahal.

Allowance to excluded proprietor or to co-sharer whose share has been transferred.

**74.** Any proprietor who has been excluded from settlement under section 68, or whose share has been transferred under section 72, shall be entitled, during the term of such exclusion or transfer,—

- (a) if he has no land which he would be entitled to hold upon a transfer of his proprietary rights, as an ex-proprietary tenant under section 10 of the <sup>1</sup>North-Western Provinces.

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Tenancy Act, 1901, or section 7A of the <sup>1</sup>Oudh Rent Act, 1886, as the case may be, to receive an annual allowance of not less than five and not more than fifteen per cent on the revenue assessed upon the mahal or share; or

- (b) if he has such land, to hold it at a rent to be fixed by the Settlement Officer in accordance with the provisions of section 10 of the <sup>2</sup>North-Western Provinces Tenancy Act, 1901, or section 7A of the <sup>1</sup>Oudh Rent Act, 1886, as the case may be, and if one-third of the rent so fixed is less than fifteen per cent on the revenue of the mahal or share, to receive such annual allowance as, when added to the one-third aforesaid, shall be not less than five and not more than fifteen per cent on such revenue.

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75. In any mahal in the North-Western Provinces whenever several persons possess separate heritable and transferable proprietary interests, such interests being of different kinds, the Settlement Officer shall, under the rules for the time being in force, determine—

- (a) which of such persons shall be admitted to engage for the payment of the revenue, due provision being made for securing the rights of the others; and
- (b) the manner and proportion in which the net profits of the mahal shall be allotted to the several persons possessing separate interests as aforesaid for the term of the settlement.

Power in N.-W. P. to direct which of several parties having separate and different interests shall be admitted to settlement and to prescribe distribution.

76. (1) If in any mahal coming under the provisions of section 75 the separate properties bear to each other the relation of superior and inferior, and the settlement be made with the party possessing the superior right, the Settlement Officer may make, on behalf of the superior proprietor, a sub-settlement with the inferior proprietor by which such inferior shall be bound to pay to the superior an amount equal to the Government demand in respect of the mahal, together with the share of the profits thereof allotted to the superior proprietor under section 75.

Power to make sub-settlement with inferior proprietor on behalf of superior proprietor of mahal coming under section 75.

(2) If the inferior proprietor refuses to agree to the sub-settlement, the mahal shall be made over to the superior proprietor for the term of settlement, and the inferior proprietor shall hold as an ex-proprietary tenant the land (if any) cultivated by him at the date of such refusal at a rent to be fixed by the Settlement Officer in accordance with the provisions of section 10 of the <sup>2</sup>North-Western Provinces Tenancy Act, 1901.

Exclusion of inferior proprietor.

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of 1901.

<sup>1</sup> *Supra*. Vol. I.

<sup>2</sup> *Supra*.

(3) If one-third of the rent so fixed is less than fifteen per cent of the profits allotted to the inferior proprietor under section 75, the superior proprietor shall pay the inferior proprietor an annual allowance, which, when added to the one-third aforesaid, shall be not less than five and not more than fifteen per cent of such profits.

(4) If the inferior proprietor cultivated no land at the date of such refusal, the superior proprietor shall pay him an annual allowance of not less than five or more than fifteen per cent. of the profits allotted to him, as the Board may direct.

Assessment on inferior proprietor when settlement made with him.

**77.** If the settlement of such a mahal is made with the inferior proprietor, the amount to be paid by him shall be fixed by the Settlement Officer at such a sum as may be equal to the assessment of such mahal, together with the share of the profits allowed to the superior proprietor, and in this case the share of the superior proprietor shall be realised as revenue, and paid to him by the Collector.

Power in N.-W. P. to make arrangements for the benefit of persons possessing rights which do not entitle them to settlement.

**78.** If in any mahal in the North-Western Provinces there exist persons possessing proprietary rights therein which are not of such a nature as to entitle their possessors to settlement, the Settlement Officer may make such arrangements as shall secure such persons in possession of their existing rights, or of an equivalent thereto.

This may be done—

- (a) by the formation of a sub-settlement on behalf of the proprietors with such persons for any lands actually in their possession; or
- (b) in mahals held as joint undivided property and when the said rights are rights to receive from the tenants any money payment or portion of the agricultural produce, by assigning, in lieu thereof the proprietary right in a certain portion of the mahal, the profits of which are equivalent, in the opinion of the Settlement Officer, to the said payment or portion; or
- (c) in such other way as shall maintain the persons referred to in the first clause of this section in the enjoyment of, or of an equivalent to, their existing rights.

Determination in Oudh of amount payable to proprietor.

**79.** In Oudh, after declaring the assessment of a mahal, the Settlement Officer shall, in accordance with the provisions of the <sup>1</sup>Oudh Sub-Settlement Act, 1866, so far as they are applicable, and subject to rules made under section 234, determine the rent to be paid by all under-proprietors in a mahal whether holding a sub-settlement or not, and by

XXVI of 1866.



all holders of heritable, non-transferable leases holding under a judicial decision.

When the rent is so determined, the co-sharers may agree that the rent shall be paid by one of them as their representative, and the Settlement Officer shall record such agreement, but no such agreement shall affect the joint and several responsibility of all co-sharers for the rent.

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Nothing in this section shall apply to rent payable by a tenant with a right of occupancy under the provisions of the Waste Rent Act, 1886.

80. Waste land in the North-Western Provinces which has neither been judicially declared to be part of any mahal, nor included within the boundaries of any mahal at any previous settlement, shall be marked off by the Settlement Officer.

Procedure in N.-W. P. as to waste land not included in any mahal at previous settlements.

And he shall record a proceeding declaring such land to be the property of Government, and issue a proclamation to that effect calling on all persons having any claims on such land to make the same within three months from the date of the proclamation.

81. Such proclamation shall be held to be an advertisement of the disposal of such land within the meaning of <sup>2</sup>Act XXIII of 1863 (*An Act to provide for the adjudication of claims to waste lands*), section 1, and any person having claims to such land must proceed according to the provisions of that Act; and for the adjudication of such claims, the Settlement Officer shall have the powers of a Collector under that Act.

Proclamation to be held an advertisement under Act XXIII of 1863.

82. If no claim is made to the proprietary right of such waste land, or if such waste land is decided to be the property of Government, but the proprietor of the adjoining mahal proves that he has theretofore enjoyed the use of such land for pastoral or agricultural purposes, the Settlement Officer may assign to such mahal so much of such waste land as he may consider requisite for such purposes; and he shall mark off the remainder and declare it to be the property of Government.

Procedure as to waste land unclaimed or adjudged to belong to Government.

83. If the claimant obtain a decree under the provisions of the said Act, XXIII of 1863,<sup>2</sup> for the whole or part of such waste land, the Settlement Officer shall make the settlement of the land to which a title is so established under the provisions of this Chapter.

Settlement of waste land adjudged to belong to claimant.

84. (1) In mahals in which there are more than one proprietor, the Settlement Officer shall record the arrangement agreed to by the persons concerned—

Arrangements agreed to by co-sharers to be recorded.

(a) for the distribution of the profits derived from sources common to the proprietary body;

<sup>2</sup> *Supra*, Vol. I.

<sup>2</sup> The Waste-lands (Claims) Act, 1863, Genl. Acts, Vol. I.

- (b) as to the nature and apportionment of the village expenses;
- (c) when a mahal, patti, or other sub-division of a mahal is held in joint ownership, as to the manner in which the co-sharers shall contribute to the payment of the revenue fixed on such mahal or distributed on such patti or sub-division by the Settlement Officer;
- (d) as to the manner in which lambardars or co-sharers are to collect from the cultivators.

Decision of  
disputes.

(2) If no arrangement is agreed to, the Settlement Officer shall decide all disputes concerning any of the matters aforesaid in accordance with the existing village custom and frame the record accordingly.

Record of  
customs

(3) The Settlement Officer shall also ascertain and record the existing village custom in regard to any other matter which he may be directed to record by rules made under section 234.

Presumption  
as to entries.

(4) All entries in the record made under this section shall be presumed to be true until the contrary is proved.

Arrange-  
ments  
to be deter-  
mined and re-  
corded.

**85.** The Settlement Officer shall, subject to rules made under section 234, determine and record—

- (a) the amounts of instalments of rent and the respective dates for their payment;
- (b) the dates for the payment of any amount payable by inferior to superior proprietors under section 75;
- (c) the dates on which profits shall be divisible by lambardars; and
- (d) any other matter which he may be directed by such rules to determine and record.

Cesses to be  
recorded.

**86.** (1) A list of all cesses other than those referred to in section 56 levied in accordance with village custom shall, if generally or specially sanctioned by the Local Government, be recorded by the Settlement Officer, and no cesses not so recorded shall be recoverable in any Civil or Revenue Court; and no such list shall be altered or added to during the currency of settlement.

Conditions on  
collection of  
cesses.

(2) The Local Government may, from time to time, impose on the collection of any cesses so sanctioned such conditions as to conservancy, police or other establishments connected with the village, bazar, or fair in or on account of which the cesses are levied as it thinks fit.

(3) The <sup>1</sup>[Local Government] may, in case of doubt, declare what shall be a cess within the meaning of this section.

(4) This section shall not apply to Oudh, unless and until a list of cesses as aforesaid has been recorded by the Settlement Officer at a revision of settlement in the manner prescribed in this section.

<sup>1</sup> These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of Act 38 of 1920.

87. (1) The Settlement Officer shall, on the application of the landholder or of an ex-proprietary or occupancy tenant, and may, of his own motion, determine and fix the rents payable by such tenants whether by way of enhancement, abatement or otherwise.

Determina-  
tion of rent  
of ex-proprie-  
tary and oc-  
cupancy ten-  
ants.

(2) In fixing such rents, the Settlement Officer shall have regard—

U. P. Act  
II of 1901,  
XXII of  
1886.

(a) in the case of ex-proprietary tenants to the provisions of section 10 of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 7A of the <sup>2</sup>Oudh Rent Act, 1886, as the case may be;

(b) in the case of occupancy tenants—

U. P. Act  
II of 1901,  
XXII of  
1886.

(i) to the provisions of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or the <sup>2</sup>Oudh Rent Act, 1886, as the case may be, for the enhancement or abatement of such rents; or

(ii) with the previous sanction of the Local Government, to the rent-rates sanctioned by the Board, in passing orders on the report submitted under section 63, for similar land with similar advantages in the circle in which the holding of the tenant is situate, or to the special rent-rates (if any) employed for the assessment of the mahal in which such holding is situate:

Provided that when it is proved that, by local custom or practice,—

(a) caste is taken into account in determining the rent payable by tenants, or

(b) any class of persons hold land on favourable rates of rent,

the rent shall be fixed with reference to such custom or practice, but in no case at an amount less than the revenue payable in respect of the holding with an addition of twenty per cent thereon.

88. In cases in which rents have heretofore been paid in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways, and partly in another or others of such ways, application to commute such rent to a fixed money rent may be made to the Settlement Officer either by the landholder or by any ex-proprietary tenant, or occupancy tenant, or, in Oudh, by any under-proprietor or lessee whose rent has been fixed by a Settlement Officer.

Power to  
commute  
rent in  
kind, etc., to  
fixed money  
rents.

89. On receipt of such application, the Settlement Officer shall deal with the case as if it were an application under section 87, and shall

Procedure on  
receiving ap-  
plication to  
commute.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

determine the sum to be paid in commutation in accordance with the provisions of that section so far as it may be applicable:

Provided that the Local Government may empower any Settlement Officer, when any such application made before him is opposed, to refuse, for reasons to be recorded by him in writing, to grant the same.

Joinder of tenants in applications relating to rent.

90. (1) An application for enhancement or abatement or commutation of rent may be brought before a Settlement Officer against or by any number of tenants collectively, provided that all such tenants are tenants to the same landholder and all the holdings in respect of which the application is made are situated in the same mahal.

(2) No order shall be passed in any such suit affecting the interests of any person unless the Settlement Officer is satisfied that he has had an opportunity of appearing and being heard.

(3) The order shall specify the extent to which each of the tenants is affected thereby.

Rent from what date payable.

91. Any rent fixed by order of the Settlement Officer under this Act shall, in the case of an ex-proprietary tenant, be payable from the date such ex-proprietary tenancy arose, subject to the law of limitation as to arrears of rent, and in other cases from the first day of July next following the date of such order unless for some reason to be recorded the Settlement Officer thinks fit to direct that it shall be payable from some earlier date.

Inquiry in certain cases of land held revenue-free.

92. The Settlement Officer shall inquire into the case of all lands released conditionally or for a term, from the payment of revenue, and shall assess such lands if it appears to him that the conditions have been transgressed or the term has expired.

Title to hold revenue-free to be proved.

93. (1) Any person claiming land free of revenue not recorded as revenue-free shall be bound to prove his title to hold such land free of revenue.

Report to Government when title proved.

(2) If he proves his title to the satisfaction of the Settlement Officer, the case shall be reported to the Local Government, whose orders thereon shall be final.

Assessment and settlement on failure of proof.

(3) If the title is not so proved, the Settlement Officer shall proceed to assess the land, and to make the settlement of it with the person in actual possession as proprietor.

Confirmation of settlement and revision of assessment.

94. (1) No settlement under this Chapter shall be final until it has been confirmed by the Local Government.

Period for which settlement is to be made.

(2) The Local Government shall, when confirming the settlement, fix the term thereof.

Revision of assessment before

(3) Any assessment may be revised, if the Local Government so directs at any time before the settlement is confirmed, and in such case

the revised assessment shall be declared, and the provisions of sections 64 to 79 (both inclusive) shall apply. confirmation.

95. All persons with whom a settlement of land has been made, shall, if they continue to hold the land after the term of such settlement has expired, hold upon the conditions of such settlement until a new settlement is made. Tenure of land under expired settlement until new settlement is made.

## CHAPTER VI.

### REVISION OF ASSESSMENT AND OTHER PROCEEDINGS DURING CURRENCY OF SETTLEMENT.

96. When the term of settlement fixed for any mahal or class of mahals is less than that fixed for the local area in which they are situated and such term expires, the Collector shall assess and settle such mahals in accordance with rules made under section 234. Short-term settlement.

97. At any time during the currency of a settlement, the Local Government may invest any officer with the powers of a Settlement Officer under Chapter V within such limits, with such restrictions, and for such period as it thinks fit, but not so as to enable him to enhance the revenue of a mahal. Powers to invest any officer with powers of a Settlement Officer.

98. The Collector shall inquire annually into the cases of all lands released conditionally or for a term from the payment of revenue. Annual inquiry as to revenue free grants.

If the condition is broken, he shall report the case to the Commissioner for orders;

and if the term has expired or (where the grant is for the life of the grantee) if the grantee has died, he shall assess the land and report his proceedings to the Commissioner for sanction.

99. (1) Land added by alluvion to a mahal may be assessed and settled by the Collector in accordance with rules made under section 234. Settlement of land added by alluvion, and revision of assessment when culturable area reduced by fluvial action.

(2) When the culturable area of any mahal has been diminished by fluvial action, the Collector may, in the case of a mahal under permanent settlement, grant suspension of revenue, and in the case of a mahal not under permanent settlement revise the assessment.

100. When such assessment or revision of assessment is made in a holding in Oudh, to which the provisions of section 79 apply, the Collector shall determine the rent payable by the under-proprietor or lessee in accordance with the provisions of section 79. Determination in Oudh of rent payable by under-proprietor or lessee.

101. When the revenue assessed on land held in the North-Western Provinces by an inferior proprietor, or in Oudh by a person to whom the Reduction, suspension or remission of

amount payable by an inferior proprietor or under-proprietor or lessee provisions of section 79 apply has been reduced or in part suspended or remitted, the Collector may, subject to rules made under section 234, make a proportionate reduction, suspension or remission in the amount payable by such inferior proprietor or such person for such land.

Collector to have powers of a Settlement Officer.

**102.** (1) For the purpose of making settlements or revising assessments under sections 96, 98 and 99, the Collector shall have the powers of a Settlement Officer.

(2) No settlement, revision of assessment or suspension of revenue made under the foregoing sections of this Chapter shall be final until it has been sanctioned by the Commissioner.

Power to determine revenue of specific areas transferred during settlement

**103.** If during the currency of a settlement the proprietary possession of any specific area other than a definite share in a mahal is transferred, the Collector may determine the proportion of the revenue payable thereon.

Commutation of rent, and joinder of tenants in applications relating to rent during the currency of settlement.

**104.** The Local Government may, from time to time, by notification in the Gazette,—

- (a) declare the provisions of sections 88 to 90, in cases of commutation of rent, applicable to any district or portion of a district not under settlement;
- (b) declare what officers are empowered to hear and decide applications under section 88 in such district or portion of a district, and lay down rules for their guidance;
- (c) withdraw any notification previously published under this section.

Applications and proceedings pending before Record or Settlement Officer when operations are closed.

**105.** When the record or settlement operations are closed by notification under section 48 or section 59, all applications and proceedings then pending before the Record or Settlement Officer shall be transferred to the Collector, who shall have the powers of a Record or Settlement Officer for the disposal thereof.

## CHAPTER VII.

### PARTITION AND UNION OF MAHALS.

Meaning of "partition."

**106.** "Partition" means the division of a mahal or of a part of a mahal into two or more portions, each consisting of one or more shares.

In "imperfect partition" the several portions remain jointly responsible for the revenue assessed on the whole mahal.

In "perfect partition" the whole mahal is divided and the several portions become separate mahals, each severally responsible for the revenue distributed thereon.

The procedure prescribed in this Chapter shall be followed in all partitions, whether imperfect or perfect, except where it is otherwise expressly declared.

**107.** An application for partition shall be accompanied by a certified copy of the annual register of proprietors prescribed by section 33, and may be presented by one or jointly by two or more of the recorded co-sharers of a mahal :

*Application for partition.*

Provided that, when a share is in possession of a mortgagee, no application for partition by either mortgagor or mortgagee shall be entertained unless both have joined in such application.

**108.** When a mahal is situated in two or more districts, the partition shall be made in such one of the districts as, if they are in the same division, the Commissioner, or, if in different divisions, the Board, may direct.

*Partition of mahal in several districts.*

**109.** (1) If, on receipt of the application, or at any other stage of a partition before confirmation, there appears to be any sufficient reason for refusing or stopping the partition, the Collector may, of his own motion or on the report of the Assistant Collector making the partition, stay the partition, and order the proceedings to be quashed.

*Power to stop a partition.*

(2) No mahal shall be formed by perfect partition unless the area thereof is at least one hundred acres or unless, if the area is less than one hundred acres, the revenue thereof is at least one hundred rupees, and if the application for perfect partition involves the formation of a mahal infringing these conditions, it shall be disallowed.

**110.** (1) The Collector, on receiving an application for partition, shall, if it is in order and not open to objection on the face of it, issue a proclamation calling on such of the recorded co-sharers in the mahal as have not joined in the application to appear before him either in person or by a duly authorised agent on a day not less than thirty or more than sixty days from the date of the issue thereof, and to state their objections (if any) to the partition. A copy of the proclamation shall, if possible, be served on each co-sharer personally.

*Proclamation of application for partition.*

(2) Any recorded co-sharer not joining in the original application may, at any time before the date fixed by the proclamation issued under this section, apply for partition, in which case such co-sharer shall be deemed to have joined in the original application :

Provided that any such application shall be disallowed if it would involve the formation of a mahal prohibited by sub-section (2) of section 109.

**111.** (1) If, on or before the day so fixed, any objection is made by a recorded co-sharer, involving a question of proprietary title which has

*Objection raising question of title.*

not been already determined by a Court of competent jurisdiction, the Collector may either--

- (a) decline to grant the application until the question in dispute has been determined by a competent Court, or
- (b) require any party to the case to institute within three months a suit in the Civil Court for the determination of such question, or
- (c) proceed to inquire into the merits of the objection.

(2) When the proceedings have been postponed under clause (b), if such party fails to comply with the requisition, the Collector shall decide the question against him. If he institutes the suit, the Collector shall deal with the case in accordance with the decision of the Civil Court.

(3) If the Collector decides to inquire into the merits of the objection, he shall follow the procedure laid down in the <sup>1</sup>Code of Civil Procedure XIV of 1882. for the trial of original suits.

Collector's  
decrees equi-  
valent to  
decrees of  
Civil Court.

**112.** All decrees passed under sub-section (3) of the preceding section shall be held to be decrees of a Court of Civil Judicature of the first instance, and shall be open to appeal to the District Judge or High Court or the Judicial Commissioner, as the case may be, under the rules applicable to appeals to those Courts, and the Appellate Court may issue a precept to the Collector, desiring him to stay the partition pending the decision of the appeal.

Partition by  
whom to be  
made.

**113.** When it has been decided to make a partition, the Collector may allow the parties to make the partition themselves, or appoint arbitrators for the purpose, or he may make the partition himself, or cause it to be made by an Assistant Collector.

If the partition is made by arbitrators, they shall not be bound by the provisions of section 117, but they shall deliver an award specifying the portions into which the mahal has been divided, and the names of the parties to whom such portions have been allotted.

The partition  
proceeding.

**114.** If the Collector makes the partition himself, or causes it to be made by an Assistant Collector, the Collector or Assistant Collector shall record a proceeding declaring the nature and extent of the interests of the persons applying for the partition and of any other persons who may be affected thereby, detailing how the partition is to be made, and deciding all disputed questions that may have arisen in connection therewith.

If such proceeding is recorded by an Assistant Collector, it shall be submitted to the Collector for confirmation.

Power to hold  
mahal under  
direct  
management  
pending  
completion of  
partition.

**115.** When it has been decided to make a partition the Collector may, with the sanction of the Commissioner, hold the mahal under direct management pending the completion of the partition.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.



The collections on the mahal shall be applied to the payment of the revenue, the expenses of management, the costs of partition, and any other expenses with which the mahal is chargeable, and any surplus shall be divided amongst the recorded co-sharers in proportion to their respective shares at such times as the profits are ordinarily divisible.

116. When the partition-proceeding has been confirmed under section 114, the Collector shall cause the cost of making the partition to be estimated, and shall direct that the cost be levied in the first instance from the applicant for partition, or from all the co-sharers in the mahal, in such instalments and at such times during the progress of the partition as may be prescribed by rules under section 234. Estimate and levy of costs.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the additional amount may be levied as above provided.

The Board shall make rules for determining the costs of partitions under this Act, and the mode in which such costs are to be apportioned :

Provided that the costs of surveying a mahal, when such survey is necessary for the purpose of partition, shall be paid rateably by all the co-sharers of the mahal, according to their shares therein.

117. In making a partition the Collector shall, subject to the provisions of sections 122, 123 and 125, first allot to the applicant such lands (if any) as are held by him as his sir or in severalty, and then so much of the lands held in common (if any) as shall give him, as far as may be, a portion of the mahal proportionate in value to his share therein, unless there is any village custom to the contrary or the parties otherwise agree. Partition of lands held in severalty or in common.

118. If, in making a partition, it is necessary to include in the portion allotted to one co-sharer the land occupied by a dwelling-house or other building in the possession of another co-sharer, the latter shall be allowed to retain it with the buildings thereon, on condition of his paying for it a reasonable ground rent to the co-sharer in whose portion it may be included. Building of one sharer on land allotted to another.

The limits of such land and the rent to be paid for it shall be fixed by the Collector.

In such cases a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some public highway or some portion of the separate estate allotted to him.

119. The rule contained in the last preceding section may be applied to gardens, orchards or any other lands of special value to the proprietor in occupation thereof, in consequence of improvements made by him or of the particular use to which such lands are put. Rule contained in the last preceding section applicable to gardens, etc.

Tanks, wells,  
water-courses  
and embank-  
ments.

**120.** Tanks, wells, water-courses, and embankments shall be considered as attached to the land for the benefit of which they were originally made.

When, from the extent, situation or construction of such works, it is necessary that they should continue the joint property of the proprietors of two or more of the portions into which the mahal may be divided, the Collector shall determine the extent to which the proprietors of each portion may use the said works and the proportion in which the charges for repairs thereof shall be borne by such proprietors and the manner in which the profits (if any) derived therefrom shall be divided.

Places of  
worship and  
burial-  
grounds.

**121.** Places of worship and burial-grounds held in common before the partition shall continue to be so held, unless the persons holding them otherwise decide, by an agreement, which shall be filed with the record.

Exchange of  
sir and sever-  
alty by con-  
sent.

**122.** The Collector shall, unless there be any reasonable objection thereto give effect to any exchange of lands held as sir or in severalty, and forming part of the mahal, agreed to by the parties before the confirmation of the partition.

In imperfect  
partitions  
transfer of  
sir and sever-  
alty barred  
without con-  
sent.

**123.** In making an imperfect partition no land held as sir or in severalty by one co-sharer shall, without his consent, be included in the portion allowed to another co-sharer :

Provided that, when any co-sharer holds more land as his sir than the area of his share, the excess may be so included without his consent.

Incompact-  
ness a reason  
for disallow-  
ing perfect  
partition.

**124.** In making a perfect partition the several portions shall be made as compact as possible, provided that, except with the sanction of the Board, no partition shall be disallowed solely on the ground of incompactness.

Transfer of  
sir and  
severalty  
in perfect  
partitions.

**125.** In making a perfect partition, if the partition cannot otherwise be conveniently carried out, or the portions cannot otherwise be made compact, the Collector or, with the sanction of the Collector, the Assistant Collector making the partition, may, without the consent of the parties concerned, include in the portion allotted to one co-sharer land held as sir or in severalty by another co-sharer, provided no reasonable objection thereto is shown.

Sir of one  
sharer includ-  
ed in portion  
allotted to  
another.

**126.** When any exchange of sir has been effected, such sir shall become the sir of the co-sharer in whose portion it is included; and when any land held as sir by any co-sharer is included in the portion allotted to another co-sharer, otherwise than by exchange of sir, and the former continues to cultivate it after partition, he shall be an ex-proprietary tenant thereof, and the rent to be paid therefor shall be fixed by the Collector before the partition is confirmed.

P. Act 11  
1901.  
III of  
36.

**127.** For the purposes of allotment under sections 117, 123 and 125, land cultivated by a co-sharer, which, if his proprietary rights were transferred, he would be entitled to hold as an ex-proprietary tenant under the provisions of section 10 of the <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 7A of the <sup>2</sup>Oudh Rent Act, 1886, as the case may be, shall be treated as sir; and when such land is included in the portion allotted to another co-sharer, the provisions of section 126 shall apply.

Certain other  
land to be  
treated as sir.

**128.** When in the course of partition the holding of any tenant is divided, the Collector shall distribute the rent of the holding over the parts divided off.

Division of  
tenant's hold-  
ing.

**129.** When a perfect partition has been disallowed under section 109, 110 or 124, the Collector may, if the applicant for partition so desires, make an imperfect partition without a fresh application.

When perfect  
partition has  
been disallow-  
ed imperfect  
partition may  
be granted.

**130.** In all cases, whether partition has been made by arbitrators or otherwise, the revenue of the mahal shall be distributed by the Collector over the several portions into which the mahal is divided.

Distribution  
of revenue on  
partition.

**131.** A partition shall not be complete until the Collector has passed an order confirming it.

Confirmation  
of partition.

When the partition has been confirmed, the Collector shall issue a proclamation thereof, and the partition shall take effect from the first day of July next following the date of such proclamation.

**132.** (1) Partition shall not be stayed by reason of any appeal against any order passed by an Assistant Collector other than an order under section 111.

Appeals in  
cases of parti-  
tion.

(2) When a partition-proceeding has been submitted to the Collector for confirmation under section 114, he shall proceed, after the expiry of the period allowed for appeal against a partition-proceeding, to decide all appeals against orders previously passed by the Assistant Collector, and all appeals against the partition-proceeding itself, and shall then confirm the partition-proceeding or pass such other order as he thinks fit.

(3) When a partition has been submitted to the Collector for confirmation under section 131, he shall proceed to decide all appeals against orders of the Assistant Collector passed since the partition proceeding was confirmed, and shall then confirm the partition or pass such other order as he thinks fit.

**133.** (1) Subject to the provisions of section 112, an appeal shall lie from the following orders by a Collector passed in course of a partition and from no other such orders :—

Orders  
appealable.

(a) Orders under section 109, staying a partition and quashing proceedings, or disallowing partition.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

- (b) Orders under section 114, recording a partition-proceeding.
- (c) Orders under section 132, sub-section (2), relating to a partition-proceeding.
- (d) Orders under section 132, sub-section (3), relating to the confirmation or otherwise of a partition.

(2) An appeal against the decision of the Collector confirming a partition under section 131 shall lie to the Commissioner of the division within six months from the date on which such partition takes effect.

Partition of two or more mahals belonging to the same proprietors.

**134.** When applications for the partition of two or more mahals belonging to the same proprietors are made, the Collector may proceed to make a partition as if the mahals in question were a single mahal.

Such partition shall be made in accordance with the provisions of this Chapter, so far as they are applicable, and, if possible, in such manner as to allot to the applicant one or more of the existing mahals.

Division of complex mahal.

**135.** When a mahal consists of two or more villages or portions of villages, the Local Government may direct its division into as many mahals as may be necessary for administrative convenience. On receipt of such direction, the Collector shall, after considering any representations made by the proprietors, distribute the revenue of the whole mahal over the several mahals into which it is divided, in accordance with rules made under section 234, and shall correct the annual registers accordingly. The mahals so formed shall be severally responsible for the revenue distributed thereon.

Fraudulent or erroneous distribution of revenue.

**136.** When, in making a division under the last section or in making a perfect partition, the revenue has, owing to fraud or error, been wrongly distributed, the Board may, within twelve years from the date of an order under section 135 or of confirmation of partition by the Collector, order such a distribution of the revenue of the original mahal over the several mahals into which it is divided as, but for the error or fraud, would have been made at the time of partition.

Under-assessed estates to refund to over-assessed estates.

**137.** The Board may in any case under section 136 direct that any proprietor whose mahal has been found to have been under-assessed shall for each year, not exceeding three years in all, in which he has held possession of his separate mahal, be required to pay to the recorded proprietor of any mahal which has been over-assessed a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be recovered as an arrear of revenue and paid to the proprietor to whom it is due.

No order passed under this section shall be questioned in any Civil or Revenue Court.

Partition of talukdari and under-pro-

**138.** (1) The partition of talukdari and under-proprietary mahals and of mahals held by lessees whose rent has been fixed by the Settlement

Officer or other competent authority shall be carried out according to the provisions of this Chapter, so far as they are applicable. proprietary mahals, etc.

(2) In the partition of talukdari mahals all mahals whether under-proprietory or held by lessees whose rent has been fixed by the Settlement Officer or other competent authority shall, if practicable, be allotted to one or other of the new talukas to be formed by the partition.

(3) If such allotment cannot be made, the division shall be made, as far as possible, by existing sub-divisions, and each portion so divided off shall be deemed a separate mahal, and the joint responsibility of the co-sharers shall be limited to such portion.

(4) The rent payable on each portion so divided off shall be fixed by the Collector, and all objections to the distribution shall be decided by him.

(5) No partition of a talukdari mahal under this section shall be proceeded with without the sanction of the Local Government previously obtained.

**139.** If two or more revenue-paying mahals form portions of the same village, the proprietor may apply to the Collector for the union of the same into a single mahal, and the Collector may, at his discretion, grant such application, and in such case shall correct the annual registers accordingly. Union of mahals forming part of the same village.

**140.** The provisions of this Chapter, so far as they are applicable, may, at the discretion of the Collector, be applied to the partition or union of revenue-free mahals. Partition and union of revenue-free mahals.

## CHAPTER VIII.

### COLLECTION OF REVENUE.

**141.** In the case of every mahal the revenue assessed thereon shall be the first charge on the entire mahal, and on the rents, profits or produce thereof. Revenue the first charge on a mahal.

The rents, profits or produce of a mahal, shall not be applied in satisfaction of a decree or order of any Civil Court until all arrears of revenue due in respect of the mahal have been paid.

**142.** All the proprietors of a mahal are jointly and severally responsible to Government for the revenue for the time being assessed thereon, and all persons succeeding to proprietary possession therein, otherwise than by purchase under section 160, shall be responsible for all arrears of revenue due at the time of their succession. Responsibility for revenue.

*Explanation.*—"Proprietor" in this Chapter means a person in proprietary possession for his own benefit, and includes a mortgagee and a lessee of proprietary rights.

Rules as to  
payment of  
revenue, ar-  
rears, and de-  
faulters

**143.** The revenue shall be paid in such instalments to such persons and at such times and places as may be prescribed by rules made under section 234, and any sum not so paid becomes an arrear of revenue, and the persons responsible for it, whether as co-sharers or as lambardars, become defaulters.

Interest not  
chargeable.

No interest shall be demanded on any arrear of revenue.

Payment  
through lam-  
bardars.

**144.** The revenue shall be paid through the lambardar, who, subject to rules made under section 234, shall be remunerated by such fees, to be paid by the other proprietors, not exceeding five per cent on the revenue payable in respect of their shares, as the Board may prescribe.

Certified ac-  
count to be  
evidence as to  
arrear.

**145.** A statement of account certified by the Tahsildar shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Processes for  
recovery of  
revenue.

**146.** An arrear of revenue may be recovered by one or more of the following processes:—

- (a) by serving a writ of demand or a citation to appear on any of the defaulters;
- (b) by arrest and detention of his person;
- (c) by attachment and sale of his moveable property;
- (d) by attachment of the specific area, share, patti or mahal in respect of which the arrear is due;
- (e) by transfer of such share or patti to a solvent co-sharer in the mahal;
- (f) by annulment of the settlement of such patti or of the whole mahal;
- (g) by sale of such specific area or patti or of the whole mahal;
- (h) by sale of other immoveable property of the defaulter.

Writ of de-  
mand and  
citation to  
appear.

**147.** When an arrear of revenue becomes due, a writ of demand calling on the defaulter to pay the amount within a time therein stated, or a citation to appear, may issue.

Arrest and  
detention.

**148.** The defaulter may be arrested and detained in custody for fifteen days unless the arrear, and the costs of arrest and detention, are sooner paid:

Provided that no taluqdar, no person exempted from personal attendance in the Civil Courts, and no female, shall be subject to arrest or detention in custody under this section.

Attachment  
and sale of  
moveable  
property.

**149.** The Collector may, whether the defaulter has been arrested or not attach and sell his moveable property.

Every attachment and sale ordered under this section shall be made according to the law in force for the time being for the attachment and sale of moveable property under the decree of a Civil Court. In addition

to the particulars mentioned in clauses (a) to (m) of section 266 of the Code of Civil Procedure, articles set aside exclusively for the use of religious endowments shall be exempt from attachment and sale under this section. The costs of the attachment and sale shall be added to the arrear of revenue, and shall be recoverable by the same procedure.

**150.** The Collector may, in addition to, or instead of, any of the other processes hereinbefore specified, attach, and take under his own management any specific area, share, patti or mahal in respect of which an arrear is due, but no land shall be held under attachment for the same arrear for a term exceeding three years from the first day of July next following the attachment: Attachment of land

Provided that, if the arrear is sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the defaulter or his legal representative.

**151.** While any land is so held under direct management, the Collector shall be bound by any engagement which at the time of attachment existed between the defaulter and the inferior proprietors, under-proprietors or tenants, and shall be entitled to manage the property so attached, and to receive all rents and profits accruing therefrom. The collections of the property so attached shall be applied to the payment of any instalment of revenue which may become due after attachment, and of the cost of attachment and management, and any surplus shall be applied to discharging the arrear on account of which the attachment was made. Powers and obligations of manager.

**152.** When the arrear is due in respect of a share or patti of a mahal, the Collector may, in addition to, or instead of any of, the processes hereinbefore specified, with the previous sanction of the Commissioner, transfer such share or patti for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to all or any of the co-sharers of the mahal other than the proprietors of such share or patti on condition of their paying the arrear, and on such terms as the Commissioner in each case may prescribe. Such transfer shall not affect the joint and several liability of the co-sharers of the mahal in which it is enforced. Transfer of defaulter's share.

When the term of transfer has expired, the share or patti shall be restored to the proprietors thereof free of any claim on the part of Government or the transferee for any arrear in respect of such share or patti.

**153.** When the Collector is of opinion that the processes hereinbefore specified are not sufficient for the recovery of such arrear, he may, in addition to, or instead of all or any of such processes, report the matter, and the Board or, in the case of a taluqa or part of a taluqa in Oudh, the When settlement may be annulled.

Local Government may thereupon order the existing settlement of the patti or mahal in respect of which the arrear is due to be annulled.

The provisions of this section shall not be put in force for the recovery of any arrear of revenue which may have accrued on land—

- (a) while under attachment ;
- (b) while under the charge of the Court of Wards ; or
- (c) which is permanently settled.

Management during annulment.

**154.** When the settlement of any land has been annulled, the Collector may, with the previous sanction of the Commissioner, either manage the land himself or he may let it in farm, for such term and on such conditions as may be sanctioned by the Commissioner :

Provided that no land may be so managed or let for a term exceeding fifteen years from the first day of July next after the date of such annulment.

All contracts relating to such land previously made by the defaulter, or any person through whom he claims, and all grants liable to resumption under the law for the time being in force, shall become voidable at the option of the Collector or the farmer.

Proclamation of attachment or annulment of settlement.

**155.** When the Collector attaches any land under section 150, or transfers it under section 152, or when the settlement of any land has been annulled under section 153, he shall issue a proclamation thereof.

Payments to defaulter thereafter or in anticipation of due date not to discharge payer.

**156.** No payment on account of rent, or any other asset of the land, made after the date of such proclamation, or in anticipation of due date, to any person other than the Collector, the transferee or the farmer, shall relieve him from liability for payment to the Collector, the transferee or the farmer, as the case may be.

Recovery of balance due by farmer.

**157.** When any land has been let in farm under section 154 or section 159 any sum due by the farmer under his lease may be recovered from him or his surety (if any) as if it were an arrear of revenue.

Joint responsibility for revenue suspended during annulment.

**158.** When the settlement of any patti is annulled under section 153, the joint responsibility of the co-sharers of the mahal for the revenue of such patti shall be in abeyance from the date of such annulment until a new settlement of such patti is made under section 159.

Settlement on expiry of period for which land is farmed or taken under management.

**159.** When the period for which any land has been managed or farmed under section 154 has expired, the Collector shall offer to the person entitled to settlement under section 65 a new settlement on such conditions as the Board, or, in the case of a taluqa, or part of a taluqa, the Local Government may direct for the remainder of the term of the original settlement.

If such offer is refused, the Collector may, with the sanction of the Commissioner, deal with the land for the remainder of the term of the



original settlement in accordance with the provisions of sections 68 to 74 (inclusive) so far as they are applicable.

**160.** When the Collector is of opinion that the other processes here-  
inbefore specified are not sufficient for the recovery of an arrear, he may, in addition to, or instead of, all or any of such other processes, with the previous sanction of the Board, or, in the case of a taluqa or part of a taluqa in Oudh, the Local Government, sell by auction the specific area, patti or mahal in respect of which such arrear is due: Sale of de-  
faulters'  
specific area,  
patti or  
mahal.

Provided that no specific area, patti, or mahal shall be sold for any arrear which may have accrued while it was—

- (a) under the management of the Court of Wards ;
- (b) under direct management by the Collector ; or
- (c) in farm under the provisions of this Act.

**161.** (1) Land sold under the last preceding section shall be sold free of all incumbrances; Land to be  
sold free of  
incum-  
brances.

and all grants liable to resumption under the law for the time being in force, and all contracts previously made by any person other than the purchaser in respect of such land, shall become voidable at the option of the purchaser at the auction sale.

(2) Nothing in sub-section (1) applies—

- (a) in mahals permanently settled, to lands held under written leases duly registered, granted in good faith at fair rents and for specified areas, by a former proprietor for terms not exceeding twenty years ;
- (b) in all mahals, to lands held under *bond fide* leases at fair rents temporary or perpetual, for the erection of dwelling-houses or manufactories, or for mines, gardens, tanks, canals, places of worship, burying-grounds, such lands continuing to be used for the purposes specified in such leases.

(3) Notwithstanding anything contained in sub-section (1), the Board, with the sanction of the Local Government, may at any time before the sale has been made, direct that it be made subject to such interests or rights in land created by the proprietor in possession thereof, or any person through whom he claims, as it thinks fit.

**162.** (1) If an arrear cannot be recovered by any of the above processes and the defaulter owns, or is in possession of, any other mahal, or any share in any other mahal, or any other immoveable property, the Collector may proceed against such mahal, or share, or other immoveable property as if it were the land on account of which the revenue is due, under the provisions of this Act: Power to  
proceed  
against in-  
terest of  
defaulter in  
property  
other than  
that in

respect of  
which default  
is made.

Provided that no interests save those of the defaulter alone shall be affected by such process, and when such property is sold, the provisions of section 161 shall not apply to such sale.

(2) Sums of money recoverable as arrears of revenue, but not due in respect of any specific land, may be recovered by process under this section against any immoveable property of the defaulter.

Proclama-  
tion of sale.

**163.** When the sale of any land or other immoveable property has been sanctioned under section 160 or section 162, the Collector shall issue a proclamation of the intended sale, specifying the land to be sold, and the revenue (if any) assessed thereon, the arrears for which it is to be sold, the time and place of sale, whether or not the land is to be sold free of incumbrances under section 161, and any other particulars the Collector may think necessary.

A copy of the proclamation shall be served on the defaulter.

Sale when  
and by whom  
to be made.

**164.** Every sale under this Chapter shall be made either by the Collector in person or by an Assistant Collector specially appointed by him in this behalf.

No such sale shall take place on a Sunday or other authorized holiday or until after the expiration of at least thirty days from the date on which the proclamation thereof was issued.

The Collector may from time to time postpone the sale.

Prohibition  
to bid for or  
acquire the  
property sold.

**165.** No officer having any duty to perform in connection with any such sale, and no persons employed by or subordinate to such officer, shall, either directly or indirectly, bid for, acquire, or attempt to acquire, except on behalf of the Government or the Court of Wards, the property sold or any interest therein.

When sale  
may be  
stayed.

**166.** If the defaulter pay the arrear in respect of which the land is to be sold, at any time before the day fixed for the sale, to the person appointed under section 143 to receive payment of the revenue assessed on such land, or to the Collector, or the Assistant Collector in charge of the sub-division in which the land is situated, the sale shall be stayed.

Deposit by  
purchaser.  
Resale in  
default  
of deposit.

**167.** The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of such deposit the land shall forthwith be again put up and sold, and such person shall be liable for the expenses attending the first sale and any deficiency of price which may occur on the re-sale, which may be recovered from him by the Collector as if the same were an arrear of revenue.

Purchase-  
money when  
to be paid.

**168.** The full amount of purchase-money shall be paid by the purchaser at the Collector's office on or before the fifteenth day from the date of the sale.

And if the purchase-money is not so paid, the deposit, after the expenses of the sale have been defrayed therefrom, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property, or to any part of the sum for which it may be subsequently sold.

**169.** If the proceeds of the sale which is eventually made are less than the price bid by such defaulting purchaser, the difference shall be recoverable from him as if it were an arrear of revenue.

Effect of default.

Liability of purchaser for loss by re-sale.

**170.** No sale after postponement under section 164, and no re-sale under section 167 in default of payment of the purchase-money, shall be made until a fresh proclamation has been issued as prescribed for the original sale.

Proclamation before re-sale.

**171.** Every sale of land or other immoveable property under this Act shall be reported by the Collector to the Commissioner.

Sale to be reported to Commissioner.

**172.** (1) Any person whose land or other immoveable property has been sold under this Act may, at any time within thirty days from the date of sale, apply to have the sale set aside on his depositing in the Collector's office—

Application to set aside sale on deposit of arrear, etc.

(a) for payment to the purchaser, a sum equal to five per cent. of the purchase-money; and

(b) for payment on account of the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale have been paid on that account; and

(c) the costs of the sale.

If such deposit is made within thirty days, the Collector shall pass an order setting aside the sale:

Provided that if a person applies under section 173 to set aside such sale he shall not be entitled to make an application under this section:

Provided also that if the land has been sold free of incumbrances under section 161, the incumbrances shall be revived as soon as the sale is set aside under this section.

(2) Every application to set aside a sale under this section, and the final order passed thereon, shall be immediately reported by the Collector to the Commissioner.

**173.** At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

Application to set aside sale for irregularity, etc.

But no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of such irregularity or mistake.

Order confirming or setting aside sale.

**174.** On the expiration of thirty days from the date of the sale, if no such application as is mentioned in section 172 or 173 has been made, or if such application has been made and rejected, the Commissioner shall pass an order confirming the sale ;

and, if such application under section 173 is made and allowed, the Commissioner shall pass an order setting aside the sale.

Every order under this section shall be final.

Bar of claims founded on irregularity or mistake.

**175.** If no application under section 173 is made within the time allowed therefor, all claims on the ground of irregularity or mistake in publishing or conducting the sale shall be barred.

Nothing herein contained shall bar the institution of a suit in the Civil Court for the purpose of setting aside a sale on the ground of fraud.

Refund of purchase-money when sale set aside.

**176.** Whenever the sale of any land or other immoveable property is set aside under section 174, the purchaser shall be entitled to receive back his purchase-money, with interest, at such rate not exceeding six per cent. per annum, or without interest, as the Commissioner thinks fit.

Purchaser to be put in possession. Certificate of purchase.

**177.** After a sale of land or other immoveable property under this Act has been confirmed in the manner aforesaid, the Collector shall put the person declared to be purchaser into possession of such property, and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such property, but need not be registered as a conveyance except as provided by section 89 of the <sup>1</sup>Registration Act, III of 1877. 1877.

If land has been sold under section 160 on account of an arrear of revenue due in respect thereof, the certificate shall also state that the purchaser has purchased the land to which the certificate refers free of every incumbrance other than the leases mentioned in sub-section (2) of section 161 and the interests or rights specified by the Board under sub-section (3) of section 161.

Bar of suit against certified purchaser.

**178.** The certificate shall state the name of the person declared at the time of sale to be the actual purchaser, and any suit brought or application made in a Civil or Revenue Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Application of proceeds of sale.

**179.** When a sale of land under this Act has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any

<sup>1</sup> See now Act 16 of 1908, Genl. Acts, Vol. VI.

arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of revenue, or of sums recoverable as arrears of revenue; and in the second place, if the sale took place for the recovery of an amount recoverable as an arrear of revenue, but not due to Government, to the payment of that amount including costs as aforesaid;

and the surplus (if any) shall be paid to the person whose land has been sold;

or, if the land sold was held in shares, then to the co-sharers collectively, or according to the amount of their recorded interest, at the discretion of the Collector.

**180.** Such surplus shall not, except under an order of a Civil or Revenue Court, be paid to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained by the Collector.

Surplus not to be paid to creditors, nor retained by Government, except under order of Court.

**181.** The person named in the certificate of title as purchaser of any land shall be liable for all instalments of revenue becoming due in respect of such land after the date of the confirmation of the sale.

Liability of purchaser for revenue.

**182.** When any land sold under section 160 or 162 is a portion of a mahal, any recorded co-sharer in the mahal, other than the person whose land has been sold, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid:

Pre-emption by co-sharers.

Provided that the said demand of pre-emption be made on the day of sale, and before the officer conducting the sale has left the office for the day; and provided that the claimant fulfils all the other conditions of the sale:

Provided also that, in Oudh, a demand of pre-emption may be made by a proprietor or under-proprietor, subject to the same conditions as in XXII of 1886, section 155 of the Oudh Rent Act, 1886.

**183.** Whenever proceedings are taken under this Chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed, and the person against whom such proceedings were taken may sue the Government in the Civil Court for the amount so paid;

Payment under protest and suit for recovery.

and in such suit the plaintiff may, notwithstanding anything contained in section 145, give evidence of the amount (if any) which he alleges to be due from him.

No protest under this section shall enable the person making the same to sue in the Civil Court, unless it is made at the time of payment in

writing and signed by such person or by an agent duly authorized in his behalf.

Recovery of  
arrears due  
from co-  
sharers  
paid by a  
lambardar.

**184.** Any lambardar who has paid an arrear of revenue due on account of the share of any co-sharer whom he represents may, within six months from the date of such payment, apply in writing to the Collector to recover such arrear together with any fees due under section 144, on his behalf as if it were an arrear of revenue payable to Government.

The Collector shall, on receipt of such application, satisfy himself that the amount claimed is due to the lambardar, and may then, subject to rules made under section 234, proceed to recover, as if it were an arrear of revenue, such amount, with costs and interest, from the said co-sharer or any person in possession of his share.

The Collector shall not be made a defendant to any suit in respect of an amount for the recovery of which an order has been passed under this section.

No appeal shall lie from an order of a Collector under this section; but nothing herein contained, and no order passed under this section, shall debar a lambardar or a co-sharer from maintaining a suit under Chapter XI, <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 108, <sup>2</sup>Oudh Rent Act, 1886, as the case may be.

U. P. Act II  
of 1901,  
XXII  
of 1886.

In Oudh rent  
of under-  
proprietor  
recoverable as  
revenue.

**185.** In Oudh whenever a mahal or patti is held in sub-settlement, or under a heritable, non-transferable lease, the rent payable under which has been fixed by the Settlement Officer or other competent authority, and the rent of such mahal or patti falls into arrear, the proprietor instead of suing under the <sup>2</sup>Oudh Rent Act, 1886, may, within one year from the accrual of such arrear, apply in writing to the Collector to realize the same, and the Collector shall, after satisfying himself that the amount claimed is due, proceed, subject to rules made under section 234, to recover such amount with costs, but without interest, as an arrear of revenue.

XXII of 1886.

If a sub-settlement has been annulled under this section, a new sub-settlement shall be made in the expiration of the period of such annulment in accordance with section 79.

Rent of land  
held by pro-  
prietor of  
mahal atta-  
ched, etc., as  
ex-proprie-  
tary  
tenant, to be  
fixed by  
Collector.

**186.** When any mahal or portion of a mahal is attached, transferred, taken under direct management, or farmed under the provisions of Chapter V or of this Chapter, the Collector shall fix a rent to be paid by any proprietor or co-sharer of such mahal or portion of a mahal on account of the land which, if his proprietary rights were transferred, he would be entitled to hold as an ex-proprietary tenant in accordance with

<sup>1</sup> *Supra*.

<sup>2</sup> *Supra*, Vol. I.

U. P. Act II  
of 1901.  
XXII of  
1886.

the provisions of section 10, <sup>1</sup>North-Western Provinces Tenancy Act, 1901, or section 7A, <sup>2</sup>Oudh Rent Act, 1886, as the case may be.

**187.** When in Oudh any mahal or portion of a mahal, held by an under-proprietor is attached, transferred, held under direct management, or farmed under the provisions of Chapter V or of this Chapter, the Collector shall fix the rent to be paid by such under-proprietor on account of the land which, if his under-proprietary rights were transferred he would be entitled to hold as an ex-proprietary tenant in accordance with

Rent of land held by under-proprietor in Oudh as ex-proprietary tenant.

XXII of 1886. the provisions of section 7A of the <sup>2</sup>Oudh Rent Act, 1886.

**188.** The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of revenue and sums of money recoverable as arrears of revenue due at the commencement of this Act.

Provisions applied to arrears due at commencement of Act.

## CHAPTER IX.

### PROCEDURE OF REVENUE COURTS AND REVENUE OFFICERS.

**189.** A Commissioner may hold his Court at any place within his division.

Place for holding court.

An Additional Commissioner may hold his Court at any place within the division or divisions to which he is appointed.

A Collector, an Assistant Collector (whether in charge or not of a sub-division of a district), a Record Officer, an Assistant Record Officer, a Settlement Officer or an Assistant Settlement Officer, may hold his Court at any place within the district to which he is appointed.

A Tahsildar may hold his Court at any place within his tahsil.

**190.** The Collector, Settlement Officer, Record Officer, and their assistants, subordinates, servants, agents and workmen may enter upon and survey land, and demarcate boundaries and do all acts necessary for any purpose connected with their duties, under this or any other Act.

Power to enter upon and survey land.

**191.** The Board or a Commissioner may transfer any case or class of cases, whether judicial or non-judicial, from any subordinate Revenue Court or Revenue Officer to any other such Court or officer competent to deal therewith.

Power of Board or Commissioner to transfer cases.

**192.** The Collector, an Assistant Collector in charge of a sub-division of a district, a Tahsildar, a Record Officer, or a Settlement Officer may make over any case or class of cases, arising under the provisions of this Act or otherwise, for inquiry or decision, from his own file to any of his subordinates competent to deal with such case or class of cases;

Power to transfer cases to and from subordinates.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

or may withdraw any case or class of cases from any Revenue Officer subordinate to him, and may deal with such case or class of cases himself or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power to  
summon  
persons to  
give evidence  
and produce  
documents.

**193.** Any Revenue Court may summon any person whose attendance it considers necessary for the purpose of any investigation, suit, or other business before it.

All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such Court may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required :

Provided that persons exempt from personal attendance in the Civil Court under sections 640 and 641 of the <sup>1</sup>Code of Civil Procedure shall, <sup>XIV of 1882.</sup> subject to the provisions of those sections, be exempt from personal attendance under this section.

Procedure in  
case of non-  
compliance  
with  
summons.

**194.** If any person, on whom a summons to give evidence or produce a document has been served, fails to comply with the summons, the officer by whom the summons has been issued may exercise the powers conferred on Civil Courts by section 174 of the <sup>1</sup>Code of Civil Procedure. <sup>XIV of 1882.</sup>

Summons to  
be in writing  
signed, and  
sealed.

**195.** Every summons shall be in writing in duplicate, and shall be signed and sealed by the officer issuing it, or by such person as he empowers in this behalf,

Mode of ser-  
ving notices.  
Service in  
district other  
than that of  
issue.

and shall be served by tendering or delivering a copy of it to the person summoned, or if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence, and if such person resides in another district, the summons may be sent by post to the Collector of that district for service.

Mode of  
serving  
summons.

**196.** Every notice under this Act may be served either by tendering, delivering, or sending a copy thereof by post, in a cover registered under the <sup>2</sup>Indian Post Office Act, 1898, to the person on whom it is to be served or, if such person is a proprietor of land, to his agent; <sup>VI of 1898</sup>

or by affixing a copy thereof at some place of public resort on or adjacent to the land to which such notice refers.

Mode of  
issuing  
proclama-  
tions.

**197.** Whenever a proclamation is issued under this Act copies thereof shall be posted in the Court-house of the officer issuing it, at the headquarters of the tahsil within which the land to which it refers is situated, and at some place of public resort on or adjacent to the land to which it refers, and if the officer issuing it so direct, the proclamation shall be further published by beat of drum on or near the land to which it refers.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.  
<sup>2</sup> Genl. Acts, Vol. V.



198. No notice or proclamation shall be deemed void on account of any error in the name or designation of any person or in the description of any land referred to therein, unless such error has produced substantial injustice.

Notice and proclamation not void for error.

XIV c. 1882. 199. If in any proceeding of a judicial nature pending before any Revenue Court, either party desires the attendance of witnesses, he shall follow the procedure prescribed by the <sup>1</sup>Code of Civil Procedure, sections 160, 161 and 162.

Procedure for procuring attendance of witnesses.

200. Whenever any party to such proceeding neglects to attend on the day specified in the summons, the case may be heard and determined in his absence.

Hearing in absence of party.

201. No appeal shall lie from an order passed under section 200 *ex parte* or by default.

No appeal from orders passed *ex parte* or by default.

But in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff within fifteen days from the date of such order, and if a defendant, within fifteen days after such order has been communicated to him, or after any process for enforcing the judgment has been executed or at any earlier period), and shows good cause for his non-appearance, and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, revive the case and alter or rescind the order according to the justice of the case:

Re-hearing on proof of good cause for non-appearance.

Provided that no such order shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and be heard in support of it.

Order not to be altered without summons to adverse party.

202. Any Court or officer by whom an order has been passed in any proceeding under this Act may, within ninety days of such order, either of his own motion or on the application of a party, correct any error or omission, not affecting a material part of the case, after such notice to the parties as may be necessary.

Correction of errors or omission.

203. The Board, a Commissioner, a Collector, an Assistant Collector of the first class, a Record Officer or an Assistant Record Officer, a Settlement Officer or an Assistant Settlement Officer, may, with the consent of the parties, by order, refer any dispute before it or him, to arbitration.

Power to refer disputes to arbitration.

X.V of 1882. 204. In all cases of reference to arbitration under section 203, the provisions of sections 507 to 521 of the <sup>1</sup>Code of Civil Procedure shall apply so far as they are not inconsistent with anything in this Act.

Procedure in cases referred to arbitration.

205. Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Application to set aside award.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

Decision  
according to  
award.

**206.** If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for reconsideration, and if no application has been made to set aside the award, or if he has refused such application, he shall decide in accordance with the award, or if the award has been submitted to him in the form of a special case, according to his own opinion in such case.

Bar to appeal  
and suit in  
Civil Court.

**207.** Such decision shall be at once carried out, and shall not be open to appeal unless the decision is in excess of, or not in accordance with, the award, or unless the decision is impugned on the ground that there is no valid award in law, or in fact;

and no person shall institute any suit in the Civil Court for the purpose of setting it aside or against the arbitrators on account of their award

Recovery of  
fines and  
costs.

**208.** All fees, fines, costs other than costs between party and party, and other moneys ordered to be paid under this Act, shall be recoverable as if they were an arrear of revenue.

A Revenue Court shall have power, subject to any special provisions in this Act, to give and apportion costs due under this Act in any proceedings before it in such manner as it thinks fit:

Provided that when land is sold under this section for moneys not payable to Government, the provisions of section 161 shall not apply to such sale.

Delivery of  
possession of  
immoveable  
property.

**209.** When possession of immoveable property is adjudged, the officer making the order may deliver over possession in the same manner, and with the same powers in regard to all contempts, resistance, and the like, as may be lawfully exercised by the Civil Courts, in execution of their own decrees.

## CHAPTER X.

### APPEALS, REFERENCE, AND REVISION.

Courts to  
which  
appeals lie.

**210.** (1) Appeals shall lie under this Act as follows—

- (a) to the Collector, Record Officer, or Settlement Officer, from orders passed by any Assistant Collector or Tahsildar, Assistant Record Officer or Assistant Settlement Officer, respectively;
- (b) to the Commissioner from orders passed by a Collector, Record Officer or Settlement Officer;
- (c) to the Board from orders passed by a Commissioner.

(2) For the purposes of this Chapter the word "order" includes a declaration of assessment under section 64, and a partition-proceeding under section 114.

(3) An appeal against a declaration of assessment made by an Assistant Settlement Officer shall lie to the Commissioner.

**211.** Unless an order is expressly made final by this Act, an appeal First appeal: shall lie to the Court authorized under section 210 to hear the same from every original order passed in any proceedings held under the provisions of this Act.

**212.** A second appeal shall lie to the Commissioner or to the Board Second appeals. as the case may be—

- (a) when the order of the Commissioner is an order in appeal from a declaration of assessment under section 64;
- (b) when the original order has in appeal been varied, cancelled, or reversed; or
- (c) on any of the following grounds (namely):—

- (i) the decision being contrary to some specified law, or usage having the force of law;
- (ii) the decision having failed to determine some material issue of law or usage having the force of law;
- (iii) a substantial error or defect in the procedure as prescribed by this Act, which may have produced error or defect in the decision of the case upon the merits.

*Explanation.*—A variation of the original order in the matter of costs only is not a variation within the meaning of clause (b).

Save as above provided, no second appeal shall be allowed.

**213.** A third appeal shall lie to the Board on the following ground Third appeals. and no other (namely):—the decision being contrary to some specified law, or usage having the force of law.

**214.** (1) No appeal to the Collector, Record Officer or Settlement Officer shall be brought after the expiration of thirty days from the date Limitation for appeals. of the order complained of.

(2) No appeal or second appeal to the Commissioner shall be brought after the expiration of sixty days from the date of the order complained of unless otherwise specially provided in this Act.

(3) No appeal, second appeal, or third appeal to the Board shall be brought after the expiration of ninety days from the date of the order complained of.

Appeal  
against order  
admitting an  
appeal.

Powers of  
Appellate  
Court.

**215.** No appeal shall lie against an order admitting an appeal on the grounds specified in section 5 of the Indian Limitation Act, 1877<sup>1</sup>.

XV of 1877.

**216.** (1) The Appellate Court may either admit or summarily reject the appeal.

(2) If it admits the appeal, it may reverse, vary, or confirm the order appealed against;

or may direct such further investigation to be made, or such additional evidence to be taken as it may think necessary;

or it may itself take such additional evidence;

or it may remand the case for disposal with such directions as it thinks fit.

Power to  
suspend exe-  
cution of  
order of  
lower Court.

**217.** When an appeal is admitted, the Appellate Court may, pending the result of the appeal, direct the execution of the order of the lower Court to be stayed.

Power of  
Commissioner,  
etc., to call  
for  
records and  
proceedings  
and reference  
to Board.

**218.** The Commissioner, the Collector, the Record Officer, or Settlement Officer may call for and examine the record of any case decided or proceedings held by any officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of the proceedings; and if he is of opinion that the proceedings taken or order passed by such subordinate officer should be varied, cancelled, or reversed, he shall refer the case with his opinion thereon for the orders of the Board; and the Board shall thereupon pass such orders as it thinks fit.

Power of  
Board to call  
for files of  
subordinate  
officers and to  
revise orders.

**219.** The Board may call for the record of any non-judicial proceeding held by any officer subordinate to it, and may pass thereon such orders as it thinks fit.

The Board may call for the record of any case of a judicial nature in which no appeal lies to the Board, if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of his jurisdiction illegally or with substantial irregularity, and may pass such orders in the case as it thinks fit.

Powers of  
Board to re-  
view and alter  
its orders and  
decrees.

**220.** (1) The Board may review and may rescind, alter or confirm any order made by itself or by any of its members in the course of its non-judicial business.

(2) No decree or order passed judicially by it or by any of its members shall be so reviewed except on the application of a party to the case made

<sup>1</sup> See now Act 9 of 1908, Genl. Acts, Vol. VI.

within a period of ninety days from the passing of the decree or order, or made after such period if the applicant satisfies the Board that he had sufficient cause for not making the application within such period.

(2) A single member vested with all or any of the powers of the Board shall not have power to alter or reverse a decree or order passed by the Board or by any member other than himself.

Members not empowered to alter each others orders.

## CHAPTER XI.

### MISCELLANEOUS.

#### (A) *Powers.*

**221.** In conferring powers under this Act, the Local Government may empower persons by name, or classes of officials generally, by their official titles and may vary or cancel any such order.

Conferring of powers.

**222.** Whenever any person holding an office in the service of Government who has been invested with any powers under this Act in any district in the North-Western Provinces or Oudh, is transferred to an equal or higher office of the same nature in any other district in the said provinces, he shall, unless the Local Government otherwise directs, be held to be invested with the same powers under this Act in the district to which he is transferred.

Powers of officers transferred to another district.

**223.** The Local Government may confer<sup>1</sup> on any Assistant Collector of the first class all or any of the powers of a Collector and all powers so conferred shall be exercised subject to the control of the Collector of the district.

Investment of Assistant Collector with powers of Collector.

**224.** The Local Government may confer<sup>1</sup> on any Tahsildar all or any of the powers of an Assistant Collector of the second class, and on any Naib Tahsildar all or any of the powers of a Tahsildar.

Conferring of powers on Tahsildars and Naib Tahsildars.

**225.** The Collector may exercise all or any of the powers of an Assistant Collector under this or any other Act for the time being in force.

Collector to have all powers of an Assistant Collector.

**226.** The Local Government may invest any officer in charge of a settlement with all or any of the powers of a Collector under this or any

Investing of Settlement Officers with powers of Collector and Assistant Collector.

<sup>1</sup> For notification conferring certain powers under ss. 223 and 224, see U. P. Local Rules and Orders.

other Act for the time being in force, and any Assistant Settlement Officer with all or any of the powers conferable on an Assistant Collector under this or any other Act for the time being in force, within such limits and with such restrictions and for such period as it thinks fit.

Powers of an Assistant Collector in charge of sub-division.

**227.** An Assistant Collector in charge of a sub-division of a district shall, as such, have the following powers:—

- (1) to appoint patwaris, under section 23 ;
- (2) to call on owners to erect or repair boundary marks, and, in default to erect or repair and charge the cost to owners, under section 29 ;
- (3) to fine for injuries to boundary or survey marks, and in certain cases apportion the charges of repairing boundary or survey marks under section 30 ;
- (4) to order alterations in the annual registers, under section 33 ;
- (5) to enquire into and decide cases of reported transfers, under sections 35 and 39 ;
- (6) to fix the rent of ex-proprietary tenants, under section 36 ;
- (7) to levy fees for mutations, under section 37, and fines, under section 38 ;
- (8) to decide disputes and to pass orders, under sections 40 to 43 ;
- (9) to appoint lambardars duly nominated, under section 45 ;
- (10) to make settlements, under section 96 ;
- (11) to report on revenue-free holdings and to assess them to revenue, under section 98 ;
- (12) to assess alluvial lands, and revise assessments, under section 99 ;
- (13) to dispose of such of the applications or proceedings referred to in section 105 as may be made over to him by the Collector ;
- (14) to exercise the powers conferred on a Collector in partition cases, under sections 110, 111, 113, 117 to 123, 126 to 130 and 134 ;
- (15) to receive applications for, and carry out, the union of mahals under section 139 ;
- (16) to attach and sell moveable property of defaulters, under section 149 ;
- (17) to fix rents, under sections 36, 186, and 187 ;
- (18) to exercise any other jurisdiction or authority which by this Act is expressly conferred on Assistant Collectors.

**228.** An Assistant Collector of the first class not in charge of a sub-division of a district shall exercise all or any of the powers conferred on an Assistant Collector of the first class in charge of a sub-division in such cases or classes of cases as the Collector may, from time to time, refer to him for disposal.

Powers of Assistant Collector of first class not in charge of sub-division.

**229.** Assistant Collectors of the second class shall have power to investigate and report on such cases as the Collector or Assistant Collector in charge of a sub-division of a district may, from time to time, commit to them for investigation and report.

Powers of Assistant Collectors of second class.

**230.** An Assistant Record Officer may, subject to the control of the Record Officer, exercise all or any of the powers conferred by this Act on Record Officers.

Powers of Assistant Record Officers

**231.** An Assistant Settlement Officer when specially empowered by the Local Government shall have power—

Special powers of Assistant Settlement Officer.

- (1) to select rent rates and frame proposals for assessment, under section 63 ;
- (2) to declare assessments, under section 64 ;
- (3) to report regarding exclusion of proprietors from settlement for refusal to engage, under section 68, and to transfer shares, under section 72 ;
- (4) to determine which of several parties having separate and different interests shall be admitted to settlement, and to prescribe distribution of profits, under section 75 ;
- (5) to make a sub-settlement, under section 76, and settlement, under section 77 ;
- (6) to make arrangements for securing the rights of persons not entitled to settlement, under section 78 ;
- (7) to deal with waste land, under sections 80 to 83 ,
- (8) to determine and record matters referred to in sections 84 and 85 ;
- (9) to determine, enhance, abate or commute rents, under sections 87 and 88 ;
- (10) to enquire into and assess revenue-free land, under section 92 ;
- (11) to decide claims to hold land revenue-free, under section 93.

**232.** All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers under such restrictions as the officer in charge of a settlement may, from time to time, impose.

Power of Assistant Settlement Officers

*(B) Jurisdiction of Civil Courts.*

Matters  
excepted from  
cognizance of  
Civil Courts.

**233.** No person shall institute any suit or other proceeding in the Civil Court with respect to any of the following matters :—

- (a) the arrangement of patwaris' circles ;
- (b) claims by any person to any of the offices mentioned in section 23, 25, or 45, or to any emolument or fees appertaining to such office, or in respect of any injury caused by his exclusion therefrom, or claims by any person to nominate persons to such offices ;
- (c) the liability of any land not excepted under the provisions of section 58 to be assessed to the payment of revenue, or to be notified as under settlement or record operations ;
- (d) the formation of the record-of-rights, or  
the preparation, signing, or attestation of any of the documents contained therein, or  
the preparation of the annual registers ;
- (e) the claim of **any person** to engage for the payment of revenue, or  
the validity of any engagement with Government for the payment of revenue, or  
the amount of revenue, cess, or rate assessed or to be assessed, or distributed or to be distributed, on any mahal, or portion of a mahal, or specific area under this or any other Act for the time being in force, or  
the amount to be paid to a proprietor by an inferior proprietor when that amount has been fixed by the Settlement Officer, or  
the declaration of assessment, under section 64, or the term of any settlement ;
- (f) any claims connected with, or arising out of, any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer ;
- (g) any matters provided for in sections 75 to 83 (both inclusive) ;
- (h) the preparation of the record referred to in sections 84 and 85 ;
- (i) save as provided in section 44, the determination of the class of a tenant, or of the rent payable by him, or the period for which such rent is fixed under this Act ;



- (j) any matters provided for in sections 92, 93, and 98 ;
- (k) partition or union of mahals except as provided in sections 111 and 112 ;
- (l) claims to set aside a sale for arrear of revenue, except on the ground of fraud under section 175 ;
- (m) claims connected with, or arising out of, the collection of revenue (other than claims under section 183), or any process enforced on account of an arrear of revenue,  
or on account of any sum which is by this or any other Act realisable as revenue.

(C) *Power to make Rules.*

234. The Board may, from time to time, subject to the sanction of the Local Government, make rules consistent with this Act—

Power of  
Board to  
make rules.

- (a) prescribing the duties of Tahsildars and Naib Tahsildars, and regulating their postings and transfers, and their appointment in temporary vacancies ;
- (b) regulating the appointment of kanungos and patwaris, their salaries, qualifications, duties, removal, punishment, suspension, and dismissal ;
- (c) regulating the extent to which preference may be given in the appointment of kanungos to persons of families in which the office of kanungo is hereditary ;
- (d) prescribing the form, contents, method of preparation, attestation, and maintenance of the record-of-rights and other records, maps, field-books, registers, and lists made or kept under this Act ;
- (e) regulating the imposition of fines, under section 38, for failure to notify successions and transfers ;
- (f) regulating the appointment, duties, and dismissal of lambar-dars ;
- (g) prescribing the manner in which Settlement Officers shall report proposals of assessment for the mahals of any area ;
- (h) regulating the distribution of assessments ;
- (i) directing with regard to what matters the Settlement Officer is to ascertain and record the village custom, under section 84 ; and what matters are to be determined and recorded, under section 85 ;

<sup>1</sup> For rules made under section 234 in conjunction with s. 203 of the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *supra*, see U. P. Local Rules and Orders.

- (j) for the guidance of Collectors and Settlement Officers in fixing rents under this Act ;
- (k) regulating the assessment of resumed revenue-free grants or of land gained by alluvion, or the reduction of the assessment or the suspension of revenue of a mahal in consequence of fluvial action ;
- (l) for the guidance of Collectors in making settlement, under section 96, and in making remission, suspension, or reduction of rent, under section 101 ;
- (m) regulating the costs of partition, and the instalments and times of payment thereof, under section 116 ;
- (n) regulating the division of complex mahals and the distribution of the revenue thereof, under section 135 ;
- (o) regulating the instalments in which, and the persons, places, and times to whom and at which, the revenue shall be paid ;
- (p) providing for the payment of the revenue through lambardars and for their remuneration ;
- (q) regulating the issue of writs of demand and citations to appear, under section 147, and the exercise of powers of arrest and detention in custody, under section 148, and directing by what officers or class of officers such process shall be issued or powers exercised and fixing the costs to be recovered from defaulters ;
- (r) regulating the method of attachment and sale of moveable property under section 149 ;
- (s) regulating the procedure to be adopted when a share or patti is transferred, the settlement of a patti or mahal is annulled, or any immoveable property is attached and sold ;
- (t) regulating the recovery of arrears due to lambardars, under section 184 ;
- (u) regulating the recovery of rent from under-proprietors, under section 185 ;
- (v) regulating the costs which may be recovered in, or in respect of, any proceeding under this Act ;
- (w) regulating the procedure to be followed by any officer (or other person) who under any provision of this Act is required or empowered to take action in any matter ; and
- (x) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

## THE FIRST SCHEDULE.

*(See section 1.)*

Serial number.	Areas
1	The Kumaon Division, consisting of the districts of <sup>1</sup> Naini Tal, Almora and Gharwal (exclusive of the settled tracts of the Tarai sub-division of the Naini Tal district).
2	<i>In the Mirzapur District—</i> (1) The tappas of Agori Khas and South Kon, in the pargana of Agori. (2) The tappa of British Singrauli, in the pargana of Singrauli. (3) The tappas of Phulwa Dudhi and Barha, in the pargana of Bechipar. (4) The Dudhi Kham estate.
3	2* * *
4	The tract of country known as Jaunsar-Bawar, in the Dehra Dun district.

## THE SECOND SCHEDULE.

*(See section 2.)*

Acts repealed.	Extent of repeal.
Act No. XIX of 1873.	The North-Western Provinces Land Revenue Act. The whole, so far as not already repealed.
Act No. XVII of 1876.	The Oudh Land Revenue Act. The whole, so far as not already repealed.

<sup>1</sup> The Act with certain modifications and restrictions has since been extended under ss. 5 and 5A of the Scheduled Districts Act, 1874 (14 of 1874), to these districts, see Appendix, Vol. III.

<sup>2</sup> The third item was repealed by s. 2 and Schedule of the Pargana of Kaswar Raja Act, 1915 (U. P. Act 6 of 1915), *infra*.

Acts repealed.		Extent of repeal.
<sup>1</sup> Act No. VIII of 1879.	The North-Western Provinces Land Revenue Act, 1879.	Sections 2 to 17 and 25 to 27, inclusive.
<sup>2</sup> Act No. IX of 1889.	The North-Western Provinces and Oudh Kanungos' and Patwaris' Act, 1889.	Sections 10, 11, 12, 17 and 19.
<sup>3</sup> Act No. XX of 1890.	The North-Western Provinces and Oudh Act, 1890.	Sections 3, 4, 12 to 16, 18 to 20, 21 (so far as not already repealed), 22 to 27, 32 to 34, and 64.

UNITED PROVINCES ACT No. IV of 1901.<sup>4</sup>

[APPLIES TO THE PROVINCE OF OUDH.]

[24th October, 1901; 19th December, 1901.]

An Act to amend the <sup>5</sup>Oudh Rent Act, 1886, and the <sup>6</sup>Oudh Laws Act, 1876.

Preamble.

WHEREAS it is expedient to amend the <sup>5</sup>Oudh Rent Act, 1886, and the <sup>6</sup>Oudh Laws Act, 1876; It is hereby enacted as follows:—

XXII of 1886.  
XVIII of  
1876.

Short title.

1. This Act may be called the Oudh Rent Act (1886) Amendment Act, 1901 ;

Commencement.

and it shall come into force on the first day of January, 1902.

<sup>1</sup> The rest of the Act was repealed by U. P. Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906) which has also been repealed by the United Provinces Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.

<sup>2</sup> The rest of the Act has since been repealed by U. P. Act 4 of 1906 which has also been repealed by the Repealing and Amending Act, 1919 (18 of 1919).

<sup>3</sup> *Supra*, Vol. I.

<sup>4</sup> For Statement of Objects and Reasons, see N.-W. P. and Oudh Gazette, 1899, Pt. V, dated 25th November, p. 227; for first Report of the Select Committee, see *ibid*, 1900, dated 10th March, p. 2; for the second Report of the Select Committee, see *ibid*, 1901, dated 22nd June, p. 237, and for Proceedings in Council, see *ibid*, Pt. VI, p. 406, *ibid*, 1900, p. 341, and *ibid*, 1901, p. 272.

<sup>5</sup> *Supra*, Vol. I.

*Amendment of the Oudh Rent Act, 1886.*

XXII of 1883.

2. After section 7 of the <sup>1</sup>Oudh Rent Act, 1886, the following section shall be inserted :—

[Vol. I of this Code, p. 269.]

Addition of new section after section 7.

3. After section 35, Part A of Chapter IV of the said Act, the following sections shall be inserted :—

[Vol. I of this Code, p. 278.]

Addition of new sections after section 35, Part A, of Chapter IV.

4. In section 9 of the said Act, after the words “ Part A ” shall be inserted the words “ or Part AA ”.

Amendment of section 9.

5. After section 107 of the said Act, the following Chapter shall be inserted :—

[Vol. I of this Code, p. 295.]

Addition of new Chapter after section 107.

6. After clause (5) of section 108 of the said Act the following clause shall be inserted :—

[Vol. I of this Code, p. 298.]

Addition of new clause after clause (5) of section 108.

*Amendment of the Oudh Laws Act, 1876.*

XVIII of 1876.

7. Section 25 and clause (g) of section 39 of the <sup>1</sup>Oudh Laws Act, 1876, are hereby repealed.

Repeal of section 25 and amendment of section 39 of Act XVIII of 1876.

THE BUNDELKHAND ENCUMBERED ESTATES  
ACT, 1903.

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UNITED PROVINCES ACT No. I of 1903.<sup>1</sup>

(APPLIES TO THE PROVINCE OF AGRA.)

[2nd May, 1903; 29th May, 1903.]

An Act to consolidate and amend the law providing for the relief of Encumbered Estates in Bundelkhand.

WHEREAS it is expedient to consolidate and amend the law providing for the relief of Encumbered Estates <sup>2</sup>[in Bundelkhand and certain other parts of the United Provinces] and to extend its scope: It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent, and  
commence-  
ment.

1. (1) This Act may be called the Bundelkhand Encumbered Estates Act, 1903.

<sup>3</sup>[(2) It extends to the districts of Banda, Hamirpur, Jhansi, and Jalaun, to the Meja, Bara, and Karchana sub-divisions of the Allahabad district, to the parganas of Dudhi, Bijaigarh, Agori, and Singrauli in the Mirzapur district, and to the trans-Jumna portion of the Etawah district ; and]

(3) It shall come into force in any of the areas specified in sub-section (2) on such day as may be specified in that behalf in a notification issued under section 3.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1903, Pt. V, p. 21; for Report of the Select Committee, see *ibid*, p. 83, and for Proceedings in Council, see *ibid*, pp. 53, 128 and 153.

<sup>2</sup> These words were substituted for the words "in that part of the United Provinces known as Bundelkhand" by s. 2 of the Bundelkhand Encumbered Estates (Amendment) Act, 1915 (U. P. Act 5 of 1915), *infra*.

<sup>3</sup> This sub-section was substituted by s. 3 of *ibid*.



2. In this Act, unless there is anything repugnant in the subject or Definitions. context,—

- (a) "private debt" means any debt or liability other than a public debt :
- (b) "public debt" means a debt due or liability incurred to Government :
- (c) "mahal" and "sir" have the same meaning as in section 4, sub-sections (4) and (12), respectively, of the <sup>1</sup>North-Western Provinces and Oudh Land Revenue Act, 1901 : and
- (d) "proprietor" means a proprietor of a mahal or of a share of a mahal, and includes an ubaridar and an inferior proprietor.

U. P. Act III  
of 1901.

<sup>2</sup>[2A. (1) In the portions of the Mirzapur district to which this Act applies, the provisions thereof applicable to proprietors shall also apply to permanent tenure-holders, fixed-rate tenants, and all other persons having rights in land which are both heritable and transferable to the same extent as a proprietary right.

Applicability of provisions of Act referring to proprietors to persons in Mirzapur having heritable and transferable rights.

(2) In this Act, except in clause (b) of section 27, all expressions referring to proprietary rights shall, for the purpose of giving effect to sub-section (1), be construed to refer also to the rights of a permanent tenure-holder and fixed-rate tenant and to all other rights in land which are both heritable and transferable to the same extent as a proprietary right.]

3. The Local Government may, by notification in the <sup>3</sup>Gazette, apply this Act to any district or part of a district specified in sub-section (2) of section 1.

Application of Act.

## CHAPTER II.

### APPOINTMENT OF OFFICERS.

4. (1) The Local Government may 'appoint for any local area to which this Act has been applied a Special Judge, who shall exercise the powers conferred, and perform the duties imposed, on him by this Act.

Appointment and removal of Special Judge.

<sup>1</sup> *Supra*.

<sup>2</sup> This section was added by s. 4 of the Bundelkhand Encumbered Estates (Amendment) Act, 1915 (U. P. Act 5 of 1915), *infra*.

<sup>3</sup> For districts and sub-divisions of a district to which this Act has been applied under s. 3, see U. P. Local Rules and Orders.

<sup>4</sup> For notification appointing officers for the purposes of s. 4, see *ibid*.

(2) The Local Government may suspend or remove any Special Judge so appointed.

Exercise of  
powers of  
Commis-  
sioner.

5. The powers conferred by this Act upon the Commissioner of the <sup>1</sup>Division may be exercised <sup>2</sup>[in respect of any specified area] by any officer authorized by the Local Government in this behalf, and all references in this Act to the Commissioner of the <sup>3</sup>Division shall be construed as referring to the officer (if any) so authorized.

### CHAPTER III.

#### THE APPLICATION AND PRELIMINARY INQUIRY.

Application  
for benefit of  
Act.

6. (1) At any time within six months after the issue of a notification under section 3, any proprietor owning land in any area covered by the notification may apply in writing, through the Collector, to the Commissioner of the <sup>1</sup>Division, stating that the proprietor is subject to, or that his immoveable property or any part thereof is encumbered with, private debts, and requesting that the provisions of this Act be applied to him.

(2) The like application may be made with respect to any such proprietor by an officer <sup>2</sup>authorized generally or specially in this behalf by the Local Government :

Provided that, when the proprietor is under the superintendence of the Court of Wards, the application shall be made by the manager of his property, and when the proprietor is a disqualified proprietor, within the meaning of section 8 of the <sup>4</sup>North-Western Provinces and Oudh Court of Wards Act, 1899, but his property is not under the superintendence of the Court of Wards, the application shall be made by the Collector of the district in which the property is situated. U. P. Act III  
of 1899.

Power to ex-  
tend time for  
making ap-  
plications.

(3) The Local Government may, by notification<sup>3</sup> in the Gazette, extend the time prescribed for making applications under any sub-section of this section.

Order to in-  
quire.

7. When any such application is made, the Commissioner may, subject to such rules as the Local Government may make in this behalf, direct an inquiry to be made by the Special Judge—

(a) into the nature and amount of the proprietor's private debts,  
and

<sup>1</sup> The word "Allahabad" was omitted by ss. 5 and 6 of the Bundelkhand Encumbered Estates (Amendment) Act, 1915 (U. P. Act 5 of 1915), *infra*.

<sup>2</sup> These words were inserted by s. 5 of *ibid*.

<sup>3</sup> For notifications under s. 6 (2) and (3), see the U. P. Local Rules and Orders.

<sup>4</sup> See now the United Provinces Court of Wards Act, 1912 (U. P. Act 4 of 1912), *infra*.

XIV of 1882.

- (b) into the sufficiency of his property, whether moveable or immoveable (exclusive of his proprietary rights in land and of the property mentioned in the first proviso to section 266 of the <sup>1</sup>Code of Civil Procedure) to discharge his private debts.

8. (7) When an inquiry has been directed under section 7, the applicant shall, within a period to be fixed by the Commissioner, submit to the Special Judge a written statement containing, so far as may be practicable,—

Written statement to be submitted.

XIV of 1882.

- (a) full particulars respecting the private debts to which the proprietor is subject, or with which his immoveable property or any part thereof is encumbered ;
- (b) the nature and value of the proprietor's property (exclusive of his proprietary rights in land and of the property mentioned in the first proviso to section 266 of the <sup>1</sup>Code of Civil Procedure) ; and
- (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, the applicant.

- (2) The statement must be verified by the applicant or by some other competent person, in the manner required by law for the verification of complaints ; and if it contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the <sup>2</sup>Indian Penal Code :

Verification of statement.

XLV of 1860.

Provided that, when the application is made by an officer authorized under section 6, sub-section (2), or by the Collector, it shall not be necessary to verify the statement; but the proprietor shall, so far as may be practicable, within a period to be fixed by the Special Judge, furnish such information regarding the matters mentioned in clauses (a), (b), and (c) of this section as the Judge may require.

## CHAPTER IV.

### PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE.

9. (1) When the statement or information referred to in section 8 has been submitted or furnished, the Special Judge shall publish in the Gazette a notice in the vernacular language of the district calling upon

Publication of notice to claimants against proprietor.

<sup>1</sup> See now Act 5 of 1903, Genl. Acts, Vol. VI.

<sup>2</sup> Genl. Acts, Vol. I.

all persons having claims against the person or the property of the proprietor by or with respect to whom the application was made under section 6 to present to the Special Judge, within two months from the date of the publication, a written statement of their claims.

Copies of notice to be exhibited.

(2) The Special Judge shall also cause copies of the notice to be exhibited at his own office, at the office of the Collector of the district in which the land of the proprietor is situate, and at some conspicuous place in the village where the proprietor resides.

Provision for admission of claims within further period of two months.

(3) The statement must be presented within the period specified in the notice, unless the claimant satisfies the Special Judge that he had sufficient cause for not presenting the statement within that period, in which case the Special Judge may receive the statement within a further period of two months from the expiration of the period so specified.

Consequences of notice.

10. (1) After the publication of the notice, the following consequences shall ensue (namely):—

- (a) all proceedings pending at the date of the publication in any Civil or Revenue Court in the United Provinces other than the High Court in respect of any private debt to which the proprietor is subject, or with which his immoveable property is encumbered, shall be stayed, all processes, executions, and attachments issued by any such Court, and then in force, in respect of any such debt, shall become null and void, and no fresh process, execution, or attachment shall, except as hereinafter provided, be issued;
- (b) in respect of any such debt no fresh suit or other proceeding shall, except as hereinafter provided, be instituted in any Civil or Revenue Court in the United Provinces.

(2) Until the Commissioner has declared, as hereinafter provided, that the proprietor has ceased to be subject to the disabilities mentioned in this clause—

- (a) the proprietor shall be incompetent to exchange, give, or, without the consent of the Commissioner, sell, mortgage, or lease his proprietary rights in land or any part thereof ; and
- (b) no suit or other proceeding shall be instituted in any Civil or Revenue Court in the United Provinces against those rights in respect of any private debt contracted by the proprietor after the publication of the notice.

Claim to contain full particulars.

11. (1) Every claimant referred to in section 9 shall, in the written statement of his claim, present full particulars thereof, and shall name

any property of the proprietor other than his land against which he seeks execution.

(2) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Special Judge along with the written statement. Documents to be given up.

(3) If the document is an entry in any book, the claimant shall produce the book to the Special Judge, together with a copy of the entry on which he relies. The Special Judge shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant. Entries in books.

(4) If any document in the possession or under the control of the claimant is not delivered or produced by him, as required by this section, the Special Judge may refuse to receive that document in evidence on the claimant's behalf at the investigation of the case. Exclusion of documents not produced.

12. Every claim against the proprietor in respect of a private debt shall, unless made within the time and in the manner required by this Act, be deemed, for all purposes and on all occasions, to have been duly discharged. Claim not duly notified to be deemed discharged.

13. (1) The Special Judge shall, by an order in writing, appoint a time for inquiring into each claim made as aforesaid ; and a copy of that order shall be served on the claimant and on the proprietor, or when the application has been made on behalf of a proprietor whose property is under the superintendence of the Court of Wards or a disqualified proprietor, whose property is not under superintendence, on the manager of his property, or the Collector, as the case may be. Order appointing time for inquiry.

(2) At the time so appointed, or at any subsequent time to which the proceedings may be adjourned, the Special Judge shall hear such of the parties as appear, and if the amount of any claim (other than a claim decreed by a competent Court) is disputed, shall inquire into the history and merits of that claim from the commencement of the transactions between the parties, and shall, as hereinafter provided, determine the amount (if any) justly due to the claimant. History of transactions with proprietor to be investigated.

*Explanation.*—Subject to the right of appeal and power of revision hereinafter conferred, the effect of this determination is to extinguish the previously existing right (if any) of the claimant, together with all rights (if any) of mortgage or lien by which the same is secured, and, where any amount is determined to be due to him, to substitute for those rights a right to recover that amount in the manner and to the extent hereinafter prescribed, and not otherwise.

14. When the Special Judge inquires, under section 13, into the history and merits of a claim, he shall, notwithstanding any agreement between the proprietor and the claimant, or the persons (if any) through Mode of taking accounts.

whom they claim, as to allowing compound interest, or as to setting off the profits of mortgaged property in lieu of interest without an account, or otherwise determining the manner of taking the account, and, notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, open the account from the commencement of the transactions between the parties, and take that account according to the following rules (that is to say) :—

- (a) separate accounts of principal and interest shall be taken ;
- (b) in the account of principal there shall be debited to the proprietor such money as may, from time to time, have been actually received by him, or on his account, from the claimant and the price of goods (if any) sold to him by the claimant as part of the transactions between them ;
- (c) in the account of principal there shall not be debited to the proprietor any money which he may have agreed to pay in contravention of section 257A of the <sup>1</sup>Code of Civil XIV of 1882. Procedure;
- (d) in the account of principal there shall not be debited to the proprietor any accumulated interest which has been converted into principal at any statement or settlement of account, or by any contract made in the course of the transactions, unless the Special Judge, for reasons to be recorded by him in writing, deems such debit to be reasonable;
- (e) in the account of interest there shall be debited to the proprietor simple interest on the balance of principal for the time being outstanding at the rate allowed by the Special Judge as hereinafter provided :

Provided that, if the claimant does not produce accounts, the Special Judge may, in his discretion, refuse to debit interest on a balance claimed;

- (f) all money paid by, or on account of, the proprietor to the claimant, or on his account, and all profits, service, or other advantages of every description received by the claimant in the course of the transactions, shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of that payment shall be credited to the proprietor in the account of principal :

*Explanation.*—The advantages mentioned in this clause shall be estimated, if necessary, at such money value as the Special

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<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

Judge may determine in his discretion, or with the aid of arbitrators appointed by him ;

- (g) the accounts of principal and interest shall be made up to the date of making the claim ; and the aggregate of the balances (if any) appearing due on both the accounts against the proprietor at that date shall be deemed to be the amount due at that date, except when the balance appearing due on the account of interest, exceeds that appearing due on the account of principal, in which case double the latter balance shall be deemed to be the amount then due.

15. The interest to be awarded in taking an account, according to the rules set forth in section 14, shall be— Interest to be allowed.

- (a) the rate (if any) agreed upon between the proprietor and the claimant or the persons (if any) through whom they respectively claim, unless that rate is deemed by the Special Judge to be unreasonable ; or
- (b) if that rate is deemed by the Special Judge unreasonable, or if no rate was agreed upon, or, if any agreement to set off profits in lieu of interest without an account, entered into between the proprietor and the claimant, or the persons (if any) through whom they respectively claim, has been set aside by the Special Judge, such rate as the Special Judge deems reasonable.

16. If, on the termination of the inquiries by the Special Judge, the proprietor forthwith pays into court the aggregate amount of the claims determined to be due, together with the aggregate of such costs (if any) as the Special Judge may in each case award against the proprietor, the Special Judge shall submit a report of his proceedings to the Commissioner, and shall, on the application of each claimant, pay to him such portions (if any) of the said aggregate amounts as may be due to him. Proceedings when amount determined to be due is paid into court.

17. If the proprietor does not pay the said amounts under section 16 and these amounts cannot, in the opinion of the Special Judge, be paid from the proceeds of the sale of the proprietor's property (exclusive of his proprietary rights in land and of the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), the Special Judge shall make an order ranking the claims and costs according to the order in which they shall be paid or discharged, and fixing the interest (if any) to be paid on the amounts thereof respectively from the date of the final decision thereon to the date of the payment or discharge thereof. Power to rank debts and fix future interest.

18. (1) When any person whose claim has been determined by the Special Judge, or whose claim is, under section 12, to be deemed to be Power to eject mortgagee, etc.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

discharged, has, as mortgagee or otherwise, obtained possession of any land of the proprietor as security for his claim, and continues in possession of that land, the Special Judge may order him to be ejected therefrom.

(2) Any order passed under this section shall be executed as nearly as may be in accordance with the provisions of section 263 and section 264 of XIV of 1882, the <sup>1</sup>Code of Civil Procedure.

Report to be submitted by Special Judge in certain cases.

19. When the proceedings hereinbefore prescribed have been concluded otherwise than under section 16, the Special Judge shall submit a report to the Commissioner, showing the nature and amount of the claims and costs as determined and awarded by him, the nature and amount of all the proprietor's property (exclusive of his proprietary rights in land and of the property mentioned in the first proviso to section 266 of the <sup>1</sup>Code of Civil Procedure) which may be available for the payment or discharge of the same, and, when an order has been made under section 17, the particulars of such order. XIV of 1882.

## CHAPTER V.

### PROCEDURE OF COMMISSIONER AND MODE OF LIQUIDATION.

On report of Special Judge Commissioner to sell property reported by Special Judge, and if necessary to direct valuation of proprietary rights.

20. (1) On receiving a report under section 19, the Commissioner shall direct that the property reported by the Special Judge as available for the payment or discharge of the claims and costs determined and awarded by him or any specified portion of that property, be sold by public auction : and from the proceeds thereof shall pay or discharge, so far as practicable, the amount of the said claims and costs.

(2) If those proceeds are not sufficient to pay or discharge in full that amount, the Commissioner shall direct the value of the proprietor's proprietary rights in land to be ascertained at such multiple of the annual profits as may be fixed by the Local Government :

Provided that the value shall not be estimated at less than six times the annual profits for the purposes of a loan, and at less than ten times such profits for the purposes of purchase by Government.

"Annual profits."

*Explanation.*—The expression "annual profits" means the balance left, after deducting the amount of the annual Government revenue, if any, and the rates payable annually by the proprietor under the <sup>2</sup>North-Western Provinces Local Rates Act, 1878, or any other Act for the time <sup>III</sup> of 1878, being in force, from the aggregate amount of—

(a) the rents which he is entitled to receive annually from his tenants.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Act 3 of 1878 was repealed by U. P. Act 2 of 1906 which has been repealed by the United Provinces Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.



- (b) the rent which he would have to pay annually for his sir and other land belonging to him in his own cultivation (if any), if he were an exproprietary tenant thereof;
- (c) all other profits annually receivable by him as proprietor; and
- (d) in the case of occasionally receivable or varying in amount from year to year, the average annual amount of such profits during the ten years next preceding the valuation.

21. When the value of the proprietor's proprietary rights has been ascertained as directed in section 20, the Commissioner shall proceed as follows :—

Proceedings  
in liquidation.

- (a) if the sum at which the rights have been valued for the purposes of a loan is sufficient to pay or discharge the unpaid balance of the claims and costs determined and awarded by the Special Judge, together with the proprietor's public debts, the Commissioner may, with the consent of the proprietor, direct such sum as may be necessary, not being more than the amount of such valuation, to be advanced from the public treasury as a loan to the proprietor repayable with interest thereon at <sup>1</sup>[such rate as the Local Government may, from time to time fix, and which may not exceed by more than two per centum per annum the rate of interest fixed by the Government of India on advances made to the Local Government] by instalments, within a term not exceeding fifteen years, and shall, from the sum so advanced, pay or discharge in full the said balance and the said public debts;
- (b) if the sum at which the rights have been valued for the purposes of a loan is not sufficient to pay or discharge the said balance and public debts, the Commissioner may, with the consent of the proprietor, pay or discharge in full the said balance and public debts partly by sale of a portion of the manner aforesaid, and partly by sale of a portion of the proprietary rights in the manner hereinafter prescribed if thereby a substantial portion of the rights can be saved;
- (c) if the proprietary rights consist of an entire patti or mahal and the sum at which the rights have been valued for the purposes of a sale is sufficient to discharge the said balance and public debts in full, the Commissioner may, with the consent of the proprietor, order that the said balance and public debts be discharged in full by payment from the public treasury, and that the patti or mahal be held under direct management by the Collector as if the settlement had been

<sup>1</sup> These words were substituted for the words "the rate of five per cent. per annum" by the Bundelkhand Encumbered Estates (Amendment) Act, 1918 (U. P. Act 2 of 1918), s. 2, *infra*, Vol. III.

U. P. Act III  
of 1901.

annulled for arrears of land revenue under section 153 of the 'North-Western Provinces and Oudh Land-revenue Act, 1901. Such management shall continue until the amount paid from the treasury with interest at <sup>2</sup>[such rate as the Local Government may, from time to time fix, and which may not exceed by more than two per centum per annum the rate of interest fixed by the Government of India on advances made to the Local Government] has been recovered from the profits after payment of the Government revenue (if any), the rates payable under the 'North-Western Provinces Local Rates Act, 1878, or any other III of 1878. Act for the time being in force, and the costs of management;

- (d) if any person to whom the said balance, or any portion thereof, is due, agrees to pay the remaining portion (if any) of the said balance and the proprietor's public debts, and to accept a mortgage in either of the forms set out in the First Schedule in lieu of such payment (if any) and the amount due to him, the Commissioner may, instead of proceeding under any of the preceding clauses, grant such a mortgage for a period not exceeding twenty years;
- (e) if the proprietor does not consent to accept a loan under clause (a) or clause (b), and action is not taken under clause (c) or clause (d), the Commissioner may order that any portion, or, if necessary, the whole, of the rights shall be sold in the manner hereinafter prescribed in order to discharge such balance and debts;
- (f) in cases where a loan is not permitted by the provisions of clause (a) or clause (b), or for any other reason is not tendered and action is not taken under clause (c) or clause (d), the Commissioner may, with the consent of the proprietor, order that the whole of the proprietor's rights be sold in the manner hereinafter prescribed in order to discharge the said balance or public debts; or may pass an order staying further proceedings under the Act.

Consequences  
of orders stay-  
ing further  
proceedings.

22. When an order has been passed under section 21 staying further proceedings under the Act, the following consequences shall ensue, namely :—

- (a) the whole of the proceedings under this Act, including those of the Special Judge, shall be set aside ;

<sup>1</sup> *Supra*.

<sup>2</sup> These words were substituted for the words "five per cent. per annum" by the Bundelkhand Encumbered Estates (Amendment) Act, 1918 (U. P. Act 2 of 1918), s. 2, *infra*, Vol. III.

<sup>3</sup> Act 3 of 1878 was repealed by U. P. Act 2 of 1906 which has been repealed by the U. P. Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.

(b) notwithstanding anything contained in the explanation to sub-section (2) of section 13, all rights and remedies and proceedings stayed under section 10, sub-section (1) shall revive to the creditors as if no action had been taken under this Act ; and

(c) in computing the period of limitation applicable to any suit or other proceeding for the recovery of debts due from the proprietor, the period from the date of the publication of notice under section 10 to date of the order of the Commissioner staying further proceedings under the Act, shall be excluded.

U. P. Act III of 1901. 23. (1) When an order for the sale of the proprietary rights of any proprietor has been made under section 21, the Commissioner may order those rights to be attached and taken under the management of the Collector, who shall have for this purpose the same powers as are conferred on a Collector by the <sup>Attachment of proprietary rights.</sup> *North-Western Provinces and Oudh Land Revenue Act, 1901, section 151.*

(2) The management shall continue until the rights are sold under this Act.

U. P. Act III of 1901. 24. (1) All sales under this Act of proprietary rights in land shall be made by public auction in the manner prescribed by the <sup>Mode of selling proprietary rights.</sup> *North-Western Provinces and Oudh Land Revenue Act, 1901, for the sale of immoveable property for arrears of land revenue.*

(2) If, at the public auction of any proprietor's proprietary rights in land, any bid is made for those rights above the sum at which they have been valued for the purposes of purchase by Government, the rights shall be sold to the highest bidder, subject to a right of pre-emption by Government, which must be exercised within thirty days of the date of sale; and the proceeds of the sale shall be paid to the Collector, or such officer as the Commissioner may direct.

(3) If no such bid is made, the Commissioner shall direct a sum of money equal to the amount of that valuation to be paid from the public treasury to the Collector or such officer.

25. (1) The Collector or such officer, as the case may be, shall thereupon, subject to the control of the Commissioner;— <sup>Duty of Collector.</sup>

*first*, pay from the money which he has received under section 24 the proprietor's public debts;

*secondly*, out of the balance of that money, pay or discharge, so far as may be practicable, the unpaid balance of the claims and costs determined and awarded by the Special Judge in the order in which they are ranked under section 17 by that Judge;

*thirdly*, pay the surplus (if any) to the proprietor.

(2) When the whole of the proprietor's proprietary rights in land have been sold in execution of an order passed under section 21, clause (e) or clause (f), and the proceeds of the sale are insufficient to discharge in full the amounts referred to in this section, the unpaid balance of those amounts shall nevertheless be deemed to have been duly discharged.

Consequences  
of loan.

26. When a sum of money has been lent under section 21, clause (a) or clause (b), to a proprietor, and applied as provided in that clause, any instalment of principal or interest or both remaining unpaid on the day fixed for the payment thereof shall be recoverable as if it were an arrear of land revenue due by him in respect of the land comprised in the valuation made under section 20.

Conditions of  
purchase by  
Government.

27. When a sum of money has been paid from the public treasury in respect of any proprietary rights of a proprietor as provided in section 24, and has been applied as provided in section 25, the following consequences shall ensue (namely):—

- (a) all such proprietary rights shall vest in His Majesty;
- (b) in respect of any of his sir and of land which he has cultivated continuously for twelve years at the date of the transfer, the proprietary rights in which are, under this section, vested in His Majesty, the proprietor shall be deemed to be an ex-proprietary tenant holding the land directly under the Government

Power to de-  
clare that pro-  
prietor has  
ceased to be  
subject to dis-  
abilities.

28. In each of the following cases (namely),—

- (a) when a report has been submitted to the Commissioner under section 16, or
- (b) when the claims and costs determined and awarded by the Special Judge have been paid or discharged in full under section 20, or
- (c) when the amount lent, under section 21, to a proprietor has been repaid, together with the interest due thereon, or
- (d) when the amount so lent with interest has been recovered from him as an arrear of land revenue, or the balance thereof remaining unpaid has been remitted by the Local Government, or
- (e) when the whole, or, where it is necessary to sell only a portion, that portion of his proprietary rights in land has been sold under this Act, or those rights have vested in His Majesty under section 27, and the amount (if any) lent under section 21, clause (b), together with the interest due thereon, has been repaid, or recovered, or remitted, or

(f) when the amount applied in discharge of the proprietor's debts under section 21, clause (c), has been recovered with interest in the manner prescribed in that clause, or

(g) when a mortgage has been granted by the Commissioner under section 21, clause (d), or

(h) when an order staying proceedings under this Act has been passed under section 21, clause (f),

the Commissioner shall declare that the proprietor has ceased to be subject to the disabilities mentioned in section 10, sub-section (2).

29. A money decree on account of private debts incurred within the period of disability shall not be capable of execution at any time against any land owned by the proprietor during that period, whether by way of attachment or sale.

## CHAPTER VI.

### APPEAL AND REVISION.

30. (1) An appeal against any decision or order of the Special Judge under this Act shall lie to the Commissioner if preferred within sixty days from the date of the decision or order, and not later, unless the appellant satisfies the Commissioner that he had sufficient cause for not presenting the appeal within that period.

(2) Subject to the power of revision next hereinafter provided the decision of the Commissioner on an appeal under this section shall be final.

31. The Board of Revenue or the Commissioner may, of its or his own motion, or on the application of any person concerned call for, and revise the proceedings in any case under this Act, and pass order thereon, consistent with the provisions herein contained, as it or he thinks fit:

Provided that nothing in this section shall empower the Commissioner to pass any order reversing or modifying an order passed by the Board of Revenue.

## CHAPTER VII.

### MISCELLANEOUS.

32. If a proprietor with regard to whom a notice has been published under section 9 dies before a declaration has been made in respect of him under section 28,—

(a) the proceedings under this Act shall be continued as nearly as may be possible in all respects as if the proprietor were still living ; and

- (b) any person succeeding to the whole or any portion of the proprietor's proprietary rights in land shall become subject in respect of those rights to the disabilities imposed by section 10, sub-section (2), and shall continue so subject until a declaration has been made in respect of him under section 28.

Investigation to be deemed a judicial proceeding. Special Judge deemed public servant within the meaning of Indian Penal Code. Power to summon witnesses, compel production of documents and award costs. Bar of suits.

33. Every investigation conducted by the Special Judge with reference to any claim made to him under this Act, or to any matter connected with any such claim, shall be deemed to be a judicial proceeding within the meaning of the 'Indian Penal Code; and the Special Judge shall be deemed to be a public servant within the meaning of that Code. XLV of 1860.

34. For the purposes of compelling the attendance of witnesses and the production of documents, and of awarding costs, the Special Judge shall have the powers conferred on a Civil Court by the 'Code of Civil Procedure. XIV of 1882.

35. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

Power to make rules.

36. (1) In addition to the powers hereinbefore conferred, the Local Government may make 'rules to carry out any of the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the procedure in all cases under this Act; and
- (b) declare what shall, for the purposes of this Act, be deemed to be the vernacular language of any specified district.

(3) All rules made by the Local Government under this Act shall be published in the Gazette, and, on such publication, shall have effect as if enacted by this Act.

Repeal.

37. The enactments mentioned in the Second Schedule are repealed to the extent specified in the fourth column thereof.

## THE FIRST SCHEDULE.

### FORMS OF MORTGAGE.

(See section 21.)

1. A mortgage in the form of a usufructuary mortgage, by which the mortgagor delivers proprietary possession of the land to the mortgagee

(Genl. Acts, Vol. I.

\* See now Act 5 of 1908, Genl. Acts, Vol. VI.

\* For rules under s. 36, see U. P. Local Rules and Orders.

and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor.

2. A mortgage in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Collector to place him in possession for such term, not exceeding twenty years, as the Collector may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Collector thinks reasonable.

## ENACTMENTS REPEALED.

(See section 37.)

Year.	Number.	Short title.	Extent of repeal.
1882	XVI	The Jhansi Encumbered Estates Act, 1882.	The whole.
1890	XX	The North-Western Provinces and Oudh Act, 1890.	So much as relates to Act XVI of 1882.

## THE BUNDELKHAND ALIENATION OF LAND ACT, 1903.

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UNITED PROVINCES ACT No. II OF 1903.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[2nd May, 1903; 29th May, 1903.]

## An Act to amend the law relating to agricultural land in Bundelkhand.

WHEREAS it is expedient to amend the law relating to agricultural land <sup>2</sup>[in Bundelkhand and certain other parts of the United Provinces]. It is hereby enacted as follows:—

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1903, Pt. V, p. 33; for Report of the Select Committee, see *ibid*, p. 110, and for Proceedings in Council, see *ibid*, pp. 60, 129 and 177.

<sup>2</sup> These words were substituted for the words "in that part of the United Provinces known as Bundelkhand" by s. 2. of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.



*Preliminary.*

1. (1) This Act may be called the Bundelkhand Alienation of Land Act, 1903. Short title,  
extent, and  
commence-  
ment.

<sup>1</sup>[(2) It extends to the districts of Banda, Hamirpur, Jhansi, and Jalaun, to the Meja, Bara, and Karchana sub-divisions of the Allahabad district, to the parganas of Dudhi, Bijaigarh, Agori, and Singrauli in the Mirzapur district, and to the trans-Jumna portion of the Etawah district; and]

(3) It shall come into force on such day<sup>2</sup> as the Local Government may, by notification in the Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context, — Definitions.

U. P. Act II  
of 1901, U. P.  
Act III of  
1901.

(1) All expressions which are defined by section 4 of the <sup>3</sup>North-Western Provinces Tenancy Act, 1901, or by section 4 of the <sup>3</sup>North-Western Provinces and Oudh Land-revenue Act, 1901, shall, subject to the provisions of this Act, have the meanings assigned to them in the said sections respectively; and the expressions “record-of-rights” and “annual register” shall have the meaning assigned to them, respectively, in Chapter III of the said last mentioned Act:

(2) the expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land;
- (b) a share in the profits of a mahal or sir;
- (c) any dues or any fixed percentage of the land revenue payable by an inferior proprietor to a superior proprietor;
- (d) a right to receive rent;<sup>4</sup>
- (e) any right to water enjoyed by the owner or occupier of land as such:
- <sup>5</sup>[(f) any well used by its owner for the purpose of irrigating land owned or occupied by him, and
- (g) in the portions of the Mirzapur district to which this Act applies, the right of a permanent tenure-holder, a fixed-

<sup>1</sup> This sub-section was substituted by s. 3 of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>2</sup> The 1st July, 1903, see United Provinces Gazette, 1903, Pt. I, p. 490.

<sup>3</sup> *Supra*, Vol. I.

<sup>4</sup> The word “and” was omitted by s. 4 (1) of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>5</sup> These clauses were added by s. 4 (2) of *ibid*.

rate tenant, or other person having an interest in land which is both heritable and transferable to the same extent as a proprietary interest.] -

(3) the expression "permanent alienation" includes sales, exchanges, gifts, and wills, but does not include any gift for a religious or charitable purpose whether made *inter vivos* or by will:

(4) the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers proprietary possession of the mortgaged land to the mortgagee, and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money, or partly in lieu of interest and partly in payment of the mortgage-money:

(5) the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee and any agreement whereby the mortgagor binds himself to repay the money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will retransfer it to the mortgagor upon payment of the mortgage-money as agreed: and

(6) the expression "legal practitioner" means any legal practitioner within the meaning of the 'Legal Practitioners' Act, 1879.

XVIII of  
1879.

<sup>2</sup>[(7) The expressions "proprietor" and "proprietary" shall, so far as is required by clause (g) of definition (2) of section 2, be deemed to refer to a person and right specified in that clause.]

### *Permanent Alienation of Land.*

Sanction  
of Collector  
required to  
certain per-  
manent alien-  
ation.

3.(1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

(a) the alienor is not a member of an agricultural tribe; or

<sup>3</sup>[(b) the alienee is either a member of the same agricultural tribe as the alienor, or is a member of an agricultural tribe and a resident of the district in which the land is situated.]

(2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by the Collector of the district in which the land is situated:

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> This definition was added by s. 4 (3) of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>3</sup> This clause was substituted by s. 5 of *ibid*.

Provided that sanction may be given after the act of alienation is otherwise completed.

(3) The Collector shall inquire into the circumstances of the alienation, and shall have discretion to grant or refuse by an order in writing the sanction required by sub-section (2).

U. P. Act I  
of 1903.

(4) Nothing in this section shall affect sales ordered or permitted under the provisions of the <sup>1</sup>Bundelkhand Encumbered Estates Act, 1903.

4. The Local Government shall, by <sup>2</sup>notification in the Gazette, \* \* <sup>3</sup>determine what bodies of persons in any district or sub-division of a district are to be deemed to be agricultural tribes for the purposes of this Act. \* \* Agricultural tribes.

5. When a Collector sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or rights of pre-emption. Saving for rights in land alienated.

#### *Temporary Alienations of Land.*

6. If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe <sup>4</sup>[or a member of an agricultural tribe and a resident of] the district in which the land is situated, the mortgage shall be made in one of the following forms:— Forms of mortgage permitted in certain cases.

- (a) in the form of a usufructuary mortgage, by which the mortgagor delivers proprietary possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor ; or
- (b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Collector to place him in possession for such term, not exceeding twenty years, as the Collector may consider to be equitable, the mortgage to be treated as a usufructuary

<sup>1</sup> *Supra.*

<sup>2</sup> For notification determining agricultural tribes, see United Provinces Local Rules and Orders.

<sup>3</sup> The words "published with the previous sanction of the Governor General in Council" were omitted by s. 6 of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>4</sup> These words were substituted for the words "or the mortgagor and mortgagee are not members of agricultural tribes and both residents of" by s. 7 (1) of *ibid.*

mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Collector thinks reasonable ; or

- (c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landholder and himself remains in cultivating occupancy of the land as a tenant for such term as may be agreed upon subject to the condition that if the mortgagor is ejected, or surrenders, or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form (a) for such term not exceeding twenty years from the date of the ejectment, surrender, or abandonment, and for such sum of money as the Collector considers reasonable ; or
- (d) in any form which the Local Government may, by general or special order, permit to be used.

Rules applying to permitted mortgages.

**7. In the case of mortgages made under section 6—**

- (1) no interest shall accrue during the period for which the mortgagee is in possession of the land, or in receipt of rent;
- (2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished;
- (3) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt, or, in the case of a mortgage in form (a) or form (b), of such proportion of the mortgage debt as the Collector determines to be equitable ; and
- (4) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money.

Conditions in permitted mortgages.

**8. (1) In a mortgage made under section 6 the following conditions may be added by agreement between the parties :—**

- (a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;
- (b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell, or mortgage trees, or to do any act affecting the permanent value of the land ; and
- (c) any condition which the Local Government, by general or special order, may declare to be admissible.

(2) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void.

9. (1) If after the commencement of this Act a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Collector shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

Power to revise mortgage made in form not permitted and mortgages by conditional sale.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Collector shall have authority to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept, in lieu of the said mortgage, a mortgage in form (a) as provided by section 6 which shall be made for such period not exceeding the period permitted by the said section, and for such sum of money as the Collector considers to be equitable.

(3) If a suit is instituted in any Civil Court on a mortgage to which sub-section (1) applies, or if a suit for the enforcement of a condition intended to operate by way of conditional sale in a mortgage made before the commencement of this Act, is instituted, or is pending at the commencement of the Act, in any Civil Court, against a member of an agricultural tribe, or if an appeal in any such suit is instituted, or is pending at the commencement of this Act, in any Civil Court other than the High Court, the Court shall, if it finds that the mortgage is enforceable or that the mortgagee is entitled to a decree absolute for foreclosure, refer the case to the Collector with a view to the exercise of the power conferred by sub-sections (1) and (2) respectively.

10. If any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Future mortgage by way of conditional sale not permitted.

11. (1) Any member of an agricultural tribe may make a lease of the land of which he is proprietor for any term not exceeding twenty years, and any lease of such land made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee is not a member of the same tribe, <sup>1</sup>[or a member of an agricultural tribe and a resident of] the district in which the land is situated, be deemed to be a lease or farm for the term permitted by this section.

Leases.

(2) Nothing in this section shall be deemed to affect the provisions of section 49 of the <sup>2</sup>North-Western Provinces Tenancy Act, 1901.

U. P. Act II  
of 1901.

<sup>1</sup> These words were substituted for the words "and the lessor and lessee are not members of agricultural tribes and both residents of" by s. 7 (2) of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>2</sup> *Supra*.

Restriction  
on power to  
make further  
temporary  
alienation.

**12.** (1) During the currency of a mortgage made under section 6 in form (a) or form (b) or of a lease under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such term together with the term of the current mortgage or lease, will make up a term not exceeding the full term of twenty years.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

Ejection of  
mortgagee, or  
lessee, remain-  
ing in posses-  
sion after  
term.

**13.** If a mortgagee or lessee, holding possession under a mortgage made under section 6 or under a lease made under section 11 or under a mortgage or lease made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage or lease, the Collector may, of his own motion or on the application of the person entitled to possession, eject such mortgagee or lessee, and place the person so entitled in possession.

### *General Provisions.*

Effect of per-  
manent alien-  
ation made  
without sanc-  
tion.

**14.** Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Collector is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (a) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Collector considers to be reasonable.

Sanction of  
Collector  
required to  
certain alien-  
ations of,  
or charges on,  
produce of  
land.

**15.** Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Collector is given thereto, and shall until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Execution-  
sale  
of land for-  
bidden.

**16.** (1) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, made after the commencement of this Act.

(2) When a valuation of proprietary rights in land has been made under section 20, sub-section (2) of the 'Bundelkhand Encumbered Estates Act, 1903, and the Commissioner has passed an order staying further proceedings under section 21, clause (f), of the said Act, the provisions of the preceding sub-section shall not be held to prevent the sale of such land in execution of a decree or order relating to a claim contained in the written statement prescribed by section 9 of the said Act.

U. P. Act I of 1903. (3) Nothing in this section shall affect sales ordered under the provisions of the 'Bundelkhand Encumbered Estates Act, 1903, or the right of Government to recover arrears of land revenue, or any dues which are recoverable as arrears of land revenue, in any manner permitted by law.

<sup>2</sup>[16A. (1) Without the previous sanction of the Collector no person shall institute a suit or take any other proceeding in any Court to enforce a right of pre-emption in respect of any land unless—

- (a) the transferor is not a member of an agricultural tribe; or
- (b) the person instituting the suit or taking the proceeding is either a member of the same agricultural tribe as the transferor or is a member of an agricultural tribe and a resident of the district in which the land is situated.

(2) The Collector shall enquire into the circumstances of the case and shall have discretion to grant or refuse, by an order in writing, the sanction required by sub-section (1).]

17. When a Civil Court passes a decree against a member of an agricultural tribe on a mortgage made before the commencement of this Act, not being a mortgage with a condition intended to operate by way of conditional sale, and such decree would, but for the provisions of section 16, be executed by sale of land, the Court shall transfer the execution of the decree to the Collector, who shall offer the decree-holder in full satisfaction of his decree a mortgage in form (a) or form (b) of section 6 for such period not exceeding twenty years as the Collector considers reasonable.

Transfer to Collector of decrees on certain mortgages.

U. P. Act II of 1901. <sup>2</sup>[17A. When in execution of a decree obtained in a suit under sections 159, 160, 161, 162, 164 or 165 of the 'Agra Tenancy Act, 1901, a Court would, but for the provisions of section 16 of this Act, order sale of any land belonging to a member of an agricultural tribe, such Court shall send the decree for execution to the Collector, who shall proceed in the manner prescribed in section 17.]

Execution of rent court decree.

U. P. Act III of 1901. 18. (1) Where, by reason of any transaction which under this Act requires the sanction of a Collector, a person claims to have acquired a right, the acquisition whereof he is bound to report under section 34 of the 'North-Western Provinces and Oudh Land-revenue Act, 1901, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual register until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act.

Record-of-rights and annual register.

<sup>1</sup> *Supra.*

<sup>2</sup> Sections 16A and 17A were inserted by ss. 8 and 9, respectively, of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

(2) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual register.

Exercise of powers of Collector.

19. The powers conferred by this Act upon a Collector may be exercised by a Revenue Officer of higher rank or by any officer authorized by the Local Government in this behalf.

Application of certain provisions of the North-Western Provinces and Oudh Land-Revenue Act, 1901.

20. Subject to the provisions of this Act, the provisions of Chapters II, IX, and X of the 'North-Western Provinces and Oudh Land-revenue Act, 1901, shall, in so far as they are applicable, apply to the proceedings of Revenue Officers under this Act. U. P. Act III of 1901.

Appearance of legal practitioners forbidden.

21. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue Officer under this Act.

Jurisdiction of Civil Courts excluded.

22. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue Officer is empowered by this Act to dispose of.

(2) No Civil Court shall take cognizance of the manner in which the Local Government or any Revenue Officer exercises any power vested in it or in him by or under this Act.

Exemption.

<sup>2</sup>[23. The Local Government may, by notification in the Gazette—

- (a) exempt any district or part of a district from this Act to such extent as it thinks fit, and
- (b) exclude any person or class of persons, from the operation of any notification made under section 4 of the Act declaring any body of persons to be deemed to be an agricultural tribe.]

Power to make rules.

24. (1) The Local Government may make <sup>3</sup>rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules<sup>3</sup> prescribing the Revenue Officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.

<sup>1</sup> *Supra*.

<sup>2</sup> Section 23 was substituted by s. 10 of the Bundelkhand Alienation of Land (Amendment) Act, 1915 (U. P. Act 4 of 1915), *infra*.

<sup>3</sup> For rules, see U. P. Local Rules and Orders.



# THE UNITED PROVINCES GENERAL CLAUSES ACT, 1904.

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UNITED PROVINCES ACT No. I of 1904.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[28th November, 1903; 7th January, 1904.]

An Act to consolidate and extend the North-Western Provinces and Oudh General Clauses Acts, 1887 and 1896.

J. P. Act I of 1887, and J. P. Act I of 1896. WHEREAS it is expedient to consolidate and extend the North-Western Provinces and Oudh General Clauses Acts, 1887 and 1896 ; It is hereby enacted as follows :—

*Preliminary.*

1. (1) This Act may be called the United Provinces General Clauses Act, 1904; and
- (2) It shall come into force at once.
2. The Acts mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

Short title-  
and  
commence-  
ment.

Repeal.

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<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1903, Pt. V, p. 46, and for Proceedings in Council, see *ibid.*, pp. 72 and 240.

3. The provisions of sections 4 to 28 shall apply to this Act and to all United Provinces Acts, whether made before or after the commencement of this Act. Application  
of Act to  
other  
enactments.

*General Definitions.*

4. In all United Provinces Acts, unless there is anything repugnant in the subject or context,— Definitions.

XLV of 1860.

- (1) "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code. "Abet."
- (2) "act" used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions: "Act."
- (3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Affidavit."
- (4) "Agra" shall mean the territories known as the North-Western Provinces previously to the 22nd day of March, 1902. "Agra."
- (5) "Assistant Collector" shall include an Assistant Commissioner: "Assistant  
Collector."
- (6) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland: "Barrister."
- (7) "Board of Revenue" shall mean the Board of Revenue for the United Provinces: "Board of  
Revenue."
- (8) "Chapter" shall mean a Chapter of the Act in which the word occurs: "Chapter."
- (9) "Collector" shall mean the chief officer in charge of the revenue administration of a district, and shall include a Deputy Commissioner and the Superintendent, Dehra Dun: "Collector."
- (10) "Commencement," used with reference to an Act, shall mean the day on which the Act comes into force: "Commence-  
ment."
- (11) "Commissioner" shall mean the chief officer in charge of the revenue-administration of a division: "Commission-  
er."
- (12) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction: "District  
Judge."

- "Document." (13) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter :
- "Enactment." (14) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid :
- "Father." (15) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father :
- "Financial year" (16) "financial year" shall mean the year commencing on the first day of April :
- "Good faith." (17) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not :
- "Gazette." (18) "Gazette" shall mean the official Gazette for the United Provinces :
- "Government of India." (19) "Government of India" shall mean the Governor General in Council, or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively :
- "Growing crops." (20) "growing crops" shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs :
- "High Court." (21) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of the United Provinces in which the Act containing the expression operates :
- "His Majesty" or "the King." (22) "His Majesty" or "the King" shall include His successors :
- "Immoveable property." (23) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, but shall not include standing timber, growing crops or grass :
- "Imprisonment." (24) "imprisonment" shall mean imprisonment of either description defined in the Indian Penal Code.

XLV of 1860.

V of 1898.

- (25) "local authority" shall mean a municipal board, district board or other authority legally entitled to, or entrusted by the Local Government with, the control or management of a municipal or local fund: "Local authority."
- (26) "Local Government" shall mean the Lieutenant-Governor of the United Provinces of Agra and Oudh: "Local Government."
- (27) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the <sup>1</sup>Code of Criminal Procedure for the time being in force: "Magistrate."
- (28) "month" shall mean a month reckoned according to the British calendar: "Month."
- (29) "moveable property" shall mean property of every description, except immoveable property: "Moveable property."
- (30) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Oath."
- (31) "offence" shall mean any act or omission made punishable by any law for the time being in force: "Offence."
- (32) "Part" shall mean a Part of the Act or Regulation in which the word occurs: "Part."
- (33) "person" shall include any company or association or body of individuals, whether incorporated or not: "Person."
- (34) "public nuisance" shall mean a public nuisance as defined in the <sup>2</sup>Indian Penal Code: "Public nuisance."
- (35) "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents: "Registered."
- (36) "Regulation" shall mean a Regulation made under the <sup>3</sup>Government of India Act, 1870: "Regulation."
- (37) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment: "Rule."
- (38) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs: "Schedule."
- (39) "Scheduled District" shall mean a "Scheduled District" as defined in the <sup>4</sup>Scheduled Districts Act, 1874: "Scheduled District."

XLV of 1860.

33 Vict., c. 3.

XIV of 1874.

<sup>1</sup> Genl. Acts, Vol. V.<sup>2</sup> Genl. Acts, Vol. I.<sup>3</sup> Government of India Act, 1870 (33 & 34 Vict., c. 3), was repealed by s. 130 of the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61).<sup>4</sup> Genl. Acts, Vol. II.

- "Section " (40) "section " shall mean a section of the Act or Regulation in which the word occurs:
- "Sign." (41) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expression:
- "Son." (42) "son," in the case of any one whose personal law permits adoption, shall include an adopted son.
- "Sub-section." (43) "sub-section " shall mean a sub-section of the section in which the word occurs:
- "Swear." (44) "swear," with its grammatical variations and cognate expressions shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing:
- "United Provinces." (45) "United Provinces " shall mean the United Provinces of Agra and Oudh:
- "United Provinces Act." (46) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the <sup>1</sup>Indian Councils Acts, 1861 and 1892: 24 Vict., c. 87.  
55 Vict., c. 14.
- "Vessel." (47) "vessel " shall include any ship or boat or any other description of vessel used in navigation:
- "Will." (48) "will " shall include a codicil and every writing making a voluntary posthumous disposition of property:
- "Writing." (49) expressions referring to "writing " shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form: and
- "Year." (50) "year " shall mean a year reckoned according to the British calendar.

### *General Rules of Construction.*

Coming into  
operation of  
enactments.

5. (1) Where any United Provinces Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it is first published in the Gazette after having received the assent of the Governor General.

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<sup>1</sup> The Indian Councils Act, 1861 and 1892, were repealed by s. 130 of the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61).

(2) Unless the contrary is expressed, a United Provinces Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

6. Where any United Provinces Act repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any remedy, or any investigation or legal proceeding commenced before the repealing Act shall have come into operation in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such remedy may be enforced and any such investigation or legal proceeding may be continued and concluded and any such penalty, forfeiture or punishment imposed as if the repealing Act had not been passed.

7. In any United Provinces Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed expressly to state that purpose.

*Revival of repealed enactments.*

8. Where any United Provinces Act repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

*Construction of references to repealed enactments.*

9. In any United Provinces Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

*Commencement and termination of time.*

10. Where, by any United Provinces Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

*Computation of time.*

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

XV of 1877.

Measurement of distances.

**11.** In the measurement of any distance, for the purposes of any United Provinces Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be taken *pro rata* in enactments.

**12.** Where, by any United Provinces Act, any duty of customs or excise, or in the nature thereof is leviable on any given quantity, by weight, measure or value of any goods or merchandize, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and number.

**13.** In all United Provinces Acts, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa*.

#### *Powers and Functionaries.*

Powers conferred on the Government to be exercisable from time to time. Power to appoint to include power to appoint *ex-officio*.

**14.** Where, by any United Provinces Act, any power is conferred on the Local Government, then that power may be exercised from time to time as occasion requires.

**15.** Where, by any United Provinces Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

**16.** Where, by any United Provinces Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substitution of functionaries.

**17.** In any United Provinces Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Successors.

**18.** In any United Provinces Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Official chiefs and subordinates.

**19.** In any United Provinces Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties



of that office in the place of their superior, to prescribe the duty of the superior.

*Provisions as to Orders, Rules, etc., made under Enactments.*

20. Where, by any United Provinces Act, a power to issue any notification, order, scheme, rule, form or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Construction of orders, etc., issued under enactments.

21. Where, by any United Provinces Act, a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary, or rescind any notifications, orders, rules or bye-laws so issued.

Power to make to include power to add to amend, vary or rescind, orders, rules or bye-laws.

22. Where, by any United Provinces Act, which is not to come into force on the day on which it is first published in the Gazette, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the Act has been published as aforesaid; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

Making of rules or bye-laws and issuing of orders between publication and commencement of enactment.

23. Where, by any United Provinces Act, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

Provisions applicable to making of rules or bye-laws after previous publication.

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) the authority having power to make the rules or bye-laws, and where the rules or bye-laws are to be made with the

sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation  
of appoint-  
ments, notifi-  
cation, orders,  
etc., issued  
under enact-  
ments  
repealed and  
re-enacted.

24. Where any enactment is repealed and re-enacted by a United Provinces Act with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted.

#### Miscellaneous.

Recovery of  
fines.

25. Sections 63 to 70 of the Indian Penal Code and the provisions of <sup>XLV of 1860.</sup> <sup>V of 1898.</sup> the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any United Provinces Act, or any rule or bye-law made under any United Provinces Act, unless the Act, rule or bye-law contains an express provision to the contrary.

Provision as  
to offences  
punishable  
under two or  
more  
enactments.

26. Where an act or omission constitutes an offence under two or more United Provinces Acts, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of  
service by  
post.

27. Where any United Provinces Act authorizes or requires any document to be served by post, whether the expression "serve," or either of the expressions "give" or "send," or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of  
enactments.

28. (1) In any United Provinces Act, and in any rule, bye-law, instrument or document, made under, or with reference to any such Act, any enactment may be cited by reference to the title or short title (if any)

\* Genl. Acts, Vol. I.  
\* Genl. Acts, Vol. V.

conferred thereon, or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In citing any United Provinces Act made previously to the 22nd day of March 1902, the words "United Provinces" may be substituted for the words "North-Western Provinces and Oudh," and the word "Agra" for the words "North-Western Provinces" in the title or short title (if any) conferred thereon.

(3) In any United Provinces Act a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29. In all Acts or Regulations of the Governor-General and all United Provinces Acts heretofore passed and now in force, and in every appointment, order, scheme, rule, bye-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh, shall be construed as referring to the United Provinces of Agra and Oudh, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of Agra and Oudh, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.

References in existing enactments to North-Western Province and Oudh.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or subject.	Extent of repeal.
1887 . .	I	The North-Western Provinces and Oudh General Clauses Act, 1887.	The whole.
1896 . .	I	The General Clauses Amendment Act, 1896.	The whole.

## UNITED PROVINCES ACT No. II OF 1904.<sup>1</sup>

(APPLIES TO THE UNITED PROVINCES.)

[14th May, 1904; 1st July, 1904.]

### An Act to amend the <sup>2</sup>United Provinces Honorary Munsifs Act, 1896.

WHEREAS it is expedient to remove certain doubts as to the Jurisdiction of honorary munsifs and benches of honorary munsifs in the United Provinces and to amend the <sup>2</sup>United Provinces Honorary Munsifs Act, 1896 (hereinafter referred to as "the said Act"); U. P. Act II of 1896.

It is hereby enacted as follows:—

Addition of  
new sub-section to section 7.

1. In section 7 of the said Act after sub-section (3) the following sub-section shall be inserted, namely,—

[*Supra*, p. 507.]

Substitution  
of new sub-section (2) in section 8.

2. In section 8 of the said Act for sub-section (2) the following shall be substituted, namely,—

[*Supra*, p. 507.]

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## THE BENARES FAMILY DOMAINS ACT, 1904.

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### CONTENTS.

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#### PART I.

#### PRELIMINARY.

#### SECTIONS.

1. Short title and extent.
2. Definitions.

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<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1904, Pt. VI, p. 22, and for Proceedings in Council, see *ibid*, p. 66.  
<sup>2</sup> *Supra*.

## SECTIONS.

3. Exemption of Family Domains from Act III of 1878 and Act XIV of 1883.
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## PART II.

## ASSESSMENT, RECOVERY, AND DISPOSAL OF RATES.

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  5. Levy of rate.
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  12. Exemptions.
  13. Power to make rules.
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## PART III.

## RECOVERY OF CERTAIN DEMANDS.

15. Raja of Benares to be deemed a Collector under section 3, Revenue Recovery Act, 1890.
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UNITED PROVINCES ACT No. III OF 1904.<sup>1</sup>

[APPEALS TO THE PROVINCE OF AGRA, SECTION 15 TO THE UNITED PROVINCES.]

[13th August, 1904; 1st November, 1904.]

An Act to provide for the imposition of rates on land in the Family Domains of the Raja of Benares and for the recovery of certain demands payable in the said Domains.

WHEREAS it is expedient to exempt by law the Family Domains of the Raja of Benares from the operation of the laws for the time being

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<sup>1</sup> For Statement of Objects and Reasons, *see* United Provinces Gazette, 1904, Pt. VI, p. 19; and for Proceedings in Council, *see* *ibid*, 1904, Pt. VI, pp. 65 and 86.

in force relating to the imposition of rates on land and the disposal of the proceeds of such rates; and to make special provision for the assessment and realization of rates on land held by tenants in the said Family Domains, and for the disposal of the proceeds of such rates;

And whereas it is also expedient to make better provision for recovering certain demands payable in the Family Domains—

It is hereby enacted as follows:—

## PART I.

### PRELIMINARY.

Short title  
and extent.

1. (1) This Act may be called the Benares Family Domains Act, 1904.

(2) Section 15 extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces of Agra and Oudh. The rest of this Act extends only to the Family Domains of the Raja of Benares, comprising the following parganas:—Bhadohi and Kera Mangraur in the Mirzapur district, Kaswar Raja<sup>1</sup> in the Benares district.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) the expression “annual value” means—

(a) The cash rent recorded in the patwaris’ records as payable by a tenant, or,

(b) in cases where the rent is paid in kind or where land is held rent-free or at nominal rates of rent or is cultivated by the inferior proprietor himself, the rent which would be payable at prevailing rates by occupancy tenants for land of similar quality and with similar advantages:

(2) the expression “inferior proprietor” includes a mukarraridar, a manzuridar, and a holder of a revenue-free mahal:

(3) the expression “land” means land which is let or held by a tenant for agricultural purposes, and land cultivated by an inferior proprietor himself with his own stock or by his servants or by hired labour:

(4) the expression “rent” means whatever is, in cash or kind, to be paid or delivered by a tenant for land held by him:

(5) the expression “tenant” means a person by whom rent is, or but for a contract, express or implied, would be payable to the Raja of Benares or to an inferior proprietor: and

<sup>1</sup> The administration of Pargana Kaswar Raja was transferred from the Raja of Benares to the British Government by U. P. Act I of 1911, *infra*.

(6) the expression "tenant at fixed rates" means a tenant holding land the rent of which under the laws in force or the customs prevailing in the Family Domains is not liable to enhancement, but does not include a tenant paying rent in kind.

3. The <sup>1</sup>Agra Local Rates Act, 1878, and the <sup>1</sup>United Provinces Local Boards Act, 1883, shall not apply to the Family Domains.

Exemption of  
Family Do-  
mains from  
Act III of  
1878 and Act  
XIV of 1883.

## PART II.

### ASSESSMENT, RECOVERY, AND DISPOSAL OF RATES.

4. All land situated in the Family Domains shall be liable to the pay- Amount of  
ment of such rate as the Local Government may declare by notification<sup>2</sup> rate.  
in the Gazette to be payable, not exceeding—

(a) five per cent. on the annual value in the case of the land of a  
tenant at fixed rates, a rent-free tenant, and an inferior pro-  
prietor cultivating his own land:

(b) three and a half per cent. on the annual value in the case of  
every other tenant.

5. The rate notified under section 4 shall be levied by the Rájá of Levy of rate.  
Benares, and the assessment of such rate shall be made through the  
channel of the Rájá.

6. The amounts assessed under section 5 shall be paid by the tenants Payment of  
of the Rájá of Benares and of inferior proprietors to the said Rájá and to rate by ten-  
the said inferior proprietors respectively, who may recover arrears of ants.  
such amounts as if they were arrears of rent.

7. The amounts assessed on the land of tenants of an inferior pro- Payment of;  
prietor less 20 per cent. deducted as costs of collection, and on the land rate by infe-  
cultivated by an inferior proprietor himself, shall be paid by the said rior proprie-  
proprietor to the Rájá of Benares, who may recover arrears of such tors.  
amounts as if they were arrears of land revenue.

8. (1) In matters connected with the assessment and collection of any Appeal to  
sum leviable under this Act, an appeal shall lie to the Superintendent of Superinten-  
the Family Domains from the order of any person empowered by rules dent.  
made under this Act to assess or collect the rate:

Provided that such appeal be presented within sixty days from the  
date of the order.

(2) The Superintendent's decision on such appeal shall be final, but Bar of suits  
shall be open to revision by the Board of Revenue. in Civil Court.

<sup>1</sup> These Acts were repealed by the United Provinces Local and Rural Police Rates Act, 1906 (see now U. P. Act I of 1914, *infra*), and the United Provinces District Boards Act, 1906, *infra*, respectively.

<sup>2</sup> For notification under s. 4, see U. P. Local Rules and Orders.

9. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Credit of  
rates to a  
fund.

10. All rates realized by the Rájá of Benares under Part II of this Act shall be credited by him to a separate fund to be called the Family Domains Local Rates Fund.

Administra-  
tion of fund.

11. The administration of the said fund shall, subject to any rules made under section 22, <sup>1</sup>Bengal Regulation VII of 1828, be entrusted to the Rájá of Benares.

Exemptions.

<sup>2</sup>12. The Local Government may, by notification in the gazette, exempt any land or class of land or any class of tenant from liability to pay the whole or any part of the rate notified under section 4 and may cancel such exemption.

Power to  
make rules.

<sup>3</sup>13. (1) The Local Government may make rules to carry out any of the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the method of ascertaining the annual value of land and of determining whether a tenant is holding land at a nominal rate of rent or not;

(b) provide for the determination of the class to which a tenant belongs in cases where the character of the tenure of land is doubtful;

(c) prescribe by whom the rate shall be assessed and collected, and by what instalments and at what times the amounts due under sections 6 and 7 shall be payable; and

(d) regulate the procedure in all cases under this Act.

(3) All rules made by the Local Government under this Act shall be published in the gazette, and shall thereupon have effect as if enacted in this Act.

Reference to  
Rájá.

14. No notification or rule shall be published under sections 4, 12 and 13 until the opinion of the Rájá of Benares thereon has been taken and considered by the Local Government.

### PART III.

#### RECOVERY OF CERTAIN DEMANDS.

Rájá of  
Benares to be  
deemed a Col-  
lector under  
section 3, Re-  
venue Reco-  
very Act,  
1890.

15. (1) Notwithstanding anything contained in the <sup>3</sup>Revenue Recovery Act, 1890, for the purposes of section 3 of that Act, the Rájá of Benares shall be deemed to be a Collector.

<sup>1</sup> The Benares Family Domains Regulation, 1828, *supra*, Vol. I.

<sup>2</sup> For notification and rules under ss. 12 and 13, *see* U. P. Local Rules and Orders.

<sup>3</sup> Genl. Acts, Vol. IV.



(2) The Rájá may, in accordance with the provisions of the said section, send a certificate to the Collector of a district outside the Family Domains for the recovery of an arrear of land revenue or of a sum recoverable as an arrear of land revenue payable to him, and similarly, on receiving a certificate from a Collector of a district outside the Family Domains, the Rájá shall proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in the Family Domains.

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## THE UNITED PROVINCES DISTRICT BOARDS ACT, 1906.

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18. Notification of elections, appointments, and vacancies.

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UNITED PROVINCES ACT No. III of 1906.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[18th March, 1906; 7th April, 1906.]

An Act to make better provision for the organisation of District Boards in the United Provinces, and to prescribe their powers and duties, and to regulate their income and expenditure.

WHEREAS it is expedient to make better provision for the organisation of district boards in the United Provinces, and to prescribe their powers and duties, and to regulate their income and expenditure; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title  
and local ex-  
tent.

1. (1) This Act may be called the United Provinces District Boards Act, 1906; and

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

Repeal,  
savings and  
amendments  
of United  
Provinces Act  
I of 1892.

2. (1) The North-Western Provinces and Oudh Local Boards Act, XIV of 1883, 1883, is hereby repealed;

But every district board or committee established, and every district fund formed under the said Act, shall be deemed to have been established and formed, as the case may be, in like manner and with the like authority as if it had been a district board established, or district fund formed, under this Act.

(2) Every rule lawfully made before the commencement of this Act, under the North-Western Provinces and Oudh Local Boards Act, 1883, XIV of 1883, shall, whether it could have been made under this Act or not, remain in full force until the 31st day of March, 1907, and after that date every such rule shall, if it could not have been made under this Act, become null and void and have no further effect:

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, Pt. VI, dated 18th November 1905, p. 100; and for Proceedings in Council, see *ibid*, dated 11th November, 1905, p. 121, and *ibid*, dated 17th March, 1906, p. 24.

Provided that the Local Government or the Board by a resolution passed at a special meeting and confirmed by the Local Government may at any time cancel any such rule.

(3) Nothing in this Act shall affect the <sup>1</sup>Local Authorities Loan Act, XI of 1879. 1879.

(4) \* \* \* \* \*

3. In this Act, unless there is something repugnant in the subject or Definitions. context,—

(1) “by-law” means a by-law made under section 26;

(2) “division,” “district” and “tahsil” have the same meanings as those in which they are employed in the <sup>3</sup>United Provinces Land Revenue Act, 1901: and

(3) “rule” means a rule made under section 56.

U. P. Act III  
of 1901.

## CHAPTER II.

### DISTRICT BOARDS.

#### *Constitution of Boards.*

4. (1) There shall be established for each district a board having authority over that district. Board to consist of elected and appointed members.

(2) Save as hereinafter otherwise provided by section 5, every such board shall consist of—

(a) so many elected members, not being less than twelve, as the Local Government may determine; and

(b) so many persons (if any), not exceeding in number one-third of the elected members, as the Local Government may, subject to rules, appoint; and

(c) any chairman or secretary who is a member by virtue of sub-section (3) of section 13 or sub-section (2) of section 30.

(3) In determining the number of members to be elected the Local Government shall fix the number of representatives proper for each tahsil.

5. (1) If it appears to the Local Government that the provisions of sub-sections (2) and (3) of section 4, are unsuited to the circumstances Power to exempt district from certain

<sup>1</sup> See now the Local Authorities Loans Act, 1914 (9 of 1914), Genl. Acts, Vol. VIII.

<sup>2</sup> Sub-section (4) which amended original s. 13 (2) (a) of U. P. Act 2 of 1892, *supra*, has been virtually repealed by s. 5 of U. P. Act 5 of 1912, *infra*, and is therefore omitted.

<sup>3</sup> *Supra*.

provisions of  
section 4.

of any district, the Local Government may, by notification in the Gazette, exempt the district from the operation of those provisions:

1\*

\*

\*

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\*

(2) While the district continues to be exempted from the operation of the provisions mentioned in sub-section (1), the Local Government may appoint such and so many members to the board as it thinks fit:

Provided that the number of members appointed by virtue of office shall not be more than one-third of the total number of the board, and that not less than one-half of the members of the board shall be persons who own landed property, or reside or carry on trade or business, in the district and are not in the service of the Government.

(3) The Local Government may, by notification in the Gazette, direct that any district exempted under this section shall cease to be so exempted.

Term of office  
of member of  
board.

6. (1) The term of office of a member of a board shall, except as provided in sections 7 and 8, be fixed by rule and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years:

Provided that the members of the district board or committee holding office at the commencement of this Act shall be deemed to be members of the board under this Act, but shall go out of office on the expiration of the term for which they were originally elected or appointed.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Term of office  
of member  
appointed by  
virtue of  
office.

7. If a member of a board is appointed by virtue of his office, he shall be a member of the board until the Local Government shall otherwise direct.

Power of  
Local Gov-  
ernment to  
reduce  
number of  
members.

<sup>2</sup>8. The Local Government may at any time fix the number of members to compose a board below the number of members then composing the board, and it may also, subject to the limitation of the proportion of appointed members of the board fixed by section 4, sub-section (2), clause (b), by notification in the Gazette direct, so far as may be necessary to reduce the number of members to the number so fixed, that the seat of any specified member shall be vacated upon a date appointed in the notification:

and if such direction is given, the seat shall be vacated accordingly, notwithstanding anything to the contrary in this Act or in any rules.

Resignation  
of member.

9. A member of a board, other than a member appointed by virtue of his office, may resign by intimating in writing his intention to do so

<sup>2</sup> The proviso to sub-section (1) of section 5 was omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>3</sup> For notification under s. 8, see U. P. Local Rules and Orders.

through the board to the Commissioner, and, on his resignation being accepted by the Commissioner, he shall be deemed to have vacated his office.

10. The Local Government may, by notification in the Gazette, remove any member of a board who refuses to act, or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who, without sufficient excuse, neglects for six consecutive months to be present at the meetings of the board. Removal of member.

11. (1) When the seat of an elected member of a board becomes vacant by his resignation, removal or death, a new member shall be elected to fill the seat: Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 4, sub-section (2), clause (b), direct in any such case that the seat shall be left unfilled.

(2) When the seat of an appointed member of a board becomes vacant as aforesaid, the Commissioner may, if he thinks fit, but subject to rules, appoint a new member to fill the seat.

(3) A person elected or appointed under this section shall hold office until the person whose seat he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

12. Every board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to the provisions of this Act and of any rules, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name. Incorporation of board.

#### *Chairman and Vice-Chairman.*

13. (1) The board shall, whenever the term of office of its chairman expires, at a special meeting convened for the purpose within the time prescribed by rules, such meeting being attended by not less than three-fourths of the members, elect one of its members or the district magistrate by virtue of his office to be chairman, and the Local Government may, if it approves of the person so elected, declare him to be chairman of the board. Chairman.

(2) If no such meeting is held within the time so prescribed, or if three-fourths of the members of the board are not present at the meeting, or, where several meetings are convened under this section, at any of those

meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint to be chairman such person as it thinks fit.

(3) The district magistrate elected by virtue of his office or a chairman appointed by the Local Government shall, if he is not already a member of the board, become a member thereof by virtue of such election or appointment and continue to be a member thereof while he holds the office of chairman.

Election of  
vice-chair-  
man.

14. The board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office  
of chairman  
and vice-  
chairman.

15. (1) The term of office of a member elected or appointed to be chairman shall be the residue of his term of office as member.

(2) The term of office of any other person elected or appointed to be chairman shall be such term, not exceeding three years, as may be prescribed by rule.

(3) The term of office of a vice-chairman shall be one year :

Provided that, when at the time of his election as vice-chairman the residue of his term of office as member is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment, as the case may be.

Resignation  
of chairman  
and vice-  
chairman.

16. (1) A chairman may resign by intimating in writing his intention to do so to the Local Government.

(2) A vice-chairman of a board may resign by intimating in writing his intention to do so to the board.

(3) On the resignation being accepted by the Local Government or the board, the chairman or vice-chairman shall be deemed to have vacated his office.

Casual vacan-  
cies in office  
of chairman  
or vice-  
chairman.

17. (1) If a chairman other than a chairman appointed by virtue of his office dies, resigns, is removed or becomes incapable of acting, a special meeting of the board shall be held within the period prescribed by rule and a new chairman shall be elected or appointed in the manner provided by section 13.

(2) If a vice-chairman dies, resigns, is removed or becomes incapable of acting, a new vice-chairman shall be elected in the manner provided by section 14, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

Provided that, if his term of office as a member expires before the person whose place he fills would regularly have gone out of office, he shall go out of office on ceasing to be a member.



*Notification of elections, appointments and vacancies.*

18. Every election and appointment of a member and of a chairman of a board, and every vacancy in the office of member, shall be notified in the Gazette. Notification of elections, appointments and vacancies.

*Conduct of business.*

19. (1) A board shall meet for the transaction of business at least once in every alternate month except in any of the districts of Naini Tal, Almora and Garhwal, where the board shall meet at such intervals as the Commissioner may from time to time direct. Time for holding meetings.

(2) The chairman or, in his absence from the district, a vice-chairman may, whenever he thinks fit, and shall upon a requisition made in writing by not less than one-fifth of the members of the board, convene either an ordinary or a special meeting at any other time.

20. (1) A meeting of a board shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or any rules to be transacted at a special meeting.

21. (1) The quorum necessary for the transaction of business at a special meeting of a board shall be one-half of the whole board. Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a board shall be one-third of the whole board:

Provided that, if at any ordinary or special meeting of the board a quorum is not present, the chairman or, in his absence from the meeting, a vice-chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before and transacted at the adjourned meeting, whether there is a quorum present thereat or not.

22. (1) At every meeting of a board the chairman, if present, shall preside. Chairman of meeting.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen, are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in sub-sections (1) and (2) the members present shall elect one of their number to be chairman of the meeting.

23. (1) Except as otherwise provided by this Act or by any rules or by-laws, all questions which may come before any meeting of a board shall be decided by a majority of the votes of the members present. Vote of majority decisive.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

24. The civil surgeon of the district, the executive engineer of the division and the inspector of schools of the circle shall be entitled to attend any meeting of a board and to address the board on any matter affecting medical relief, sanitation, vaccination, public works and public instruction, as the case may be.

Resolutions to be recorded.

25. (1) The resolutions passed at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may direct and shall, at all reasonable times and without the payment of any fee, be open to the inspection of any inhabitant of the district who pays the local rate.

(2) A copy of every resolution passed by a board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district magistrate.

Power to make by-laws as to conduct of business.

26. (1) Every board may, from time to time, make by-laws, consistent with this Act and with any rules, as to—

- (a) the time and place of its meetings;
- (b) the manner of convening ordinary and special meetings respectively, and of giving notice thereof;
- (c) the conduct of proceedings at meetings and the adjournment of meetings;
- (d) the division of duties among the members of the board, and the powers to be exercised by such members as are primarily responsible for the current executive administration, whether chairman, vice-chairman or other members;
- (e) the appointment, duties, powers, leave, punishment and removal of its officers and servants;
- (f) the person by whom receipts may be granted on behalf of the board for money paid under this Act; and
- (g) all other similar matters.

(2) Every by-law made under this section shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may direct.

Appointment of committee.

27. (1) Subject to such conditions as may be prescribed by rule, a board may appoint, from among its members, committees to assist it in the discharge of any specified duties or class of duties within the whole or any portion of the district and may delegate to any such committee all

or any powers of the board which may be necessary for the purpose of rendering such assistance.

(2) Where a committee is appointed to assist the board, and a tahsil is specified as the local area within which such assistance is to be rendered, the tahsildar in charge of such tahsil shall, notwithstanding anything in sub-section (1), be a member of such committee.

(3) The board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any committee appointed under this section;

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the committee has been allowed an opportunity of showing cause against it.

#### *Joint Committees.*

28. (1) A board may, from time to time, concur with any other district board, or with a municipal board, or with a cantonment authority, in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either of the boards or authorities, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed. Joint committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner if the arrears under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

#### *Defects in constitution and irregularities.*

29. No act done or proceeding taken under this Act or any rule or by-law shall be questioned on the ground merely of the existence of any vacancy in any board, committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case. Vacancies and irregularities not to invalidate proceedings.

#### *Officers and Servants.*

30. (1) Every board shall, from time to time, at a special meeting appoint one or more of its members, or with the sanction of the Commissioner, any other person or persons, to be its secretary or secretaries. Appointment of Secretary.

(2) If a person who is an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall become

a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services; but, in other cases, the board may assign to a secretary any such pay as the Commissioner may approve.

Employment  
of other  
officers and  
servants.

**31.** Subject to the other provisions of this Act and to any rules, a board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Pensions,  
leave allow-  
ances and pro-  
vident fund.

**32.** (1) If an officer or servant of a board is a Government official, the board may—

- (a) if his services are wholly lent to it, contribute to his pension, gratuity and leave allowances in accordance with any general or special orders of the Governor-General in Council in force for the time being; and
- (b) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuity and leave allowances in such proportion as may be determined by the Government.

(2) If an officer or servant of a board is not a Government official, the board may—

- (a) grant him leave allowances and, in a case in which, if he were a Government official, he would be entitled to a gratuity on leaving the service, a gratuity, and
- (b) if empowered in this behalf by the Local Government, and subject to such conditions as may be prescribed by rules,—
  - (i) establish, maintain and contribute to a provident fund, and compel any or every such officer or servant to contribute to it;
  - (ii) purchase or arrange for any such officer or servant an annuity on his retirement; or
  - (iii) subscribe in his behalf for a pension, gratuities and leave allowances in accordance with any general or special orders of the Governor General in Council [or Local Government]<sup>1</sup> in force for the time being.

(3) Subject to such conditions as may be prescribed by rules, a board may give an extraordinary pension or gratuity—

- (a) to any officer or servant injured in the execution of his duty; or

<sup>1</sup> These words were inserted by s. 2 and Sch. I of Act 38 of 1920.

(b) to the family of any officer or servant who is killed in the execution of his duty, or whose death is due to devotion to duty.

(4) No pension, gratuity, leave allowance or annuity shall exceed the sum to which, under any general or special orders of the Governor General in Council [or Local Government]<sup>1</sup> in force for the time being, such officer or servant, or his family, would be entitled if the service had been service under the Government.

33. (1) If a person serving or having served under a board has been or is transferred from or to the service of the Government, or is partly employed by the Government and partly by a board, the board shall contribute to his pension and leave allowances to the extent required by the rules, in force for the time being made by the Governor General in Council in this behalf. Pension and the like in case of service partly under Government and partly under Board.

(2) The board shall not, unless with the assent of the Government, dispense with the services of any such person without giving the Government six months' previous notice.

34. In the absence of a written contract to the contrary, every officer or servant employed by a board shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it. Notice before discharge.

#### *Contracts.*

35. (1) A board may delegate to one or more of its members the power of entering on its behalf into any contract whereof the value or amount does not exceed two hundred rupees. Authority to contract.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

36. (1) Every contract made by or on behalf of a board whereof the value or amount exceeds twenty rupees shall be in writing. Mode of executing contracts.

(2) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary:

Provided that the board may delegate to one or more of its members the power of executing any contracts which he is or they are empowered to enter into under sub-section (1) of section 35.

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

37. Nothing in section 35 or section 36 shall apply to any contract entered into by or on behalf of a board for the execution of any work by a Department of the Government. Saving of certain contracts.

<sup>1</sup> These words were inserted by s. 2 and Sch. I of Act 38 of 1920.

Penalty on member, officer or servant of board being interested in contract made with board.

38. (1) If any member, officer or servant of a board, committee or joint committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the board or committee, he shall be deemed to have committed an offence punishable under section 168 of the <sup>1</sup>Indian Penal Code.

XLV of 1860.

(2) A member of a board, committee or joint committee who, with the Commissioner's permission, is directly or indirectly interested in any contract made with the board or committee shall not take part in the proceedings of the board or committee relating to such contract.

(3) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

### *Privileges and Liabilities.*

Suits against board or its officers.

39. No suit of any kind shall be instituted against a board or against any member, officer or servant of a board in respect of any act purporting to be done in its or his official capacity, whether by way of contract or otherwise, until the expiration of two months next after notice in writing has been, in the case of a board, left at its office, and, in the case of a member, officer or servant, delivered to him, or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Liability of members for loss, waste or misapplication.

40. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner or by the Secretary of State for India in Council.

Certain officers and servants to be deemed public servants.

41. Every officer or servant of a board whose duty it is as such officer or servant to give information of offences, to bring offenders to justice or to protect the public health, safety or convenience shall be deemed to be a public servant within the meaning of section 21 of the <sup>1</sup>Indian Penal Code; and in the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of this section, be deemed to include a board.

XLV of 1860.

*Duties of Boards.*

42. (1) Every board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may make and impose, provide for the control and administration of the following matters within the district:—

Matters to be administered by Boards.

- (a) the construction, repair and maintenance of public roads, bridges and other means of communication;
- (b) the planting and preservation of trees on the sides of roads and on other public ground;
- (c) the establishment, management, maintenance and visiting of hospitals, dispensaries, poor-houses, asylums, veterinary hospitals, markets, staging houses, inspection houses, public parks and gardens, and other public institutions and the construction and repair of all buildings connected with these institutions;
- (d) the construction and repair of school-houses and all appurtenant buildings, the establishment, management and maintenance of schools, either wholly or by means of grants-in-aid, the inspection of schools, the training of teachers and the establishment of scholarships;
- (e) the construction and repair of public wells, tanks, water-works, canals, embankments and drainage works and the supply of water from them and from other sources;
- (f) the construction and maintenance of light railways;
- (g) the construction, repair and maintenance of famine preventive works, the establishment and maintenance of relief works and relief houses and the adoption of such other measures of relief in time of famine and scarcity as may be considered necessary;
- (h) the establishment and management of pounds, including, where the <sup>1</sup>Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the district magistrate under the Act as may be transferred to the board by the Local Government;
- (i) the management of such public ferries as may be entrusted to its charge under section 7A of the <sup>2</sup>Northern India Ferries Act, 1878;
- (j) the regulation of encamping grounds and, where the <sup>3</sup>Sarais Act, 1867 is in force, of sarais and paraos, including such

I of 1871.

XVII of 1878.

XXII of 1867.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> *Supra*, Vol. I.

<sup>3</sup> Genl. Acts, Vol. I.

functions of the district magistrate under that Act as the Local Government may direct;

- (k) the institution, holding and management of fairs, agricultural shows and industrial exhibitions, the breeding and medical treatment of cattle, horses and other animals and all measures tending to the improvement and assistance of agriculture and industries;
- (l) the maintenance of any building or other property which is vested under this Act in the board or may be placed by the Local Government under the management of the board;
- (m) the management of any public or private charities or trusts placed, by the order or with the consent of the Local Government, under the board; \*<sup>1</sup>
- (n) public vaccination, village sanitation and any other local works or measures likely to promote the health, comfort, convenience or interest of the public<sup>2</sup>[;] <sup>2</sup>[and]
- <sup>3</sup>[ (o) the regulation of any trade or business relating to meat, bones, fat, hides, manure or other offensive matter.]

Regulation of  
offensive  
trades.

(2) A board may also with the sanction of the Local Government and, if directed by the Local Government, it shall to the extent so directed—

- (a) unite with any other boards in works or undertakings which benefit all the districts of which the boards so unite; and
- (b) contribute to any work or institution from which the district benefits, although such work or institution is undertaken or maintained outside the district.

## CHAPTER III.

### DISTRICT FUND AND PROPERTY.

Constitution  
of district  
fund.

**43.** There shall be formed for each district a district fund, and there shall be placed to the credit thereof—

- (a) any residue of the local rates credited under Chapter II of the <sup>4</sup>United Provinces Local and Rural Police Rates Act, 1906; U. P. Act II of 1906.
- (b) any sum contributed by the Local Government;

<sup>1</sup> The word "and" was deleted by s. 2 (i) of the United Provinces District Boards (Amendment) Act, 1915 (U. P. Act 2 of 1915), *infra*.

<sup>2</sup> The full stop was changed to a semi-colon and the word "and" was added at the end of clause (n) by s. 2 (ii) of *ibid*.

<sup>3</sup> This clause was added by s. 2 (iii) of *ibid*.

<sup>4</sup> Repealed by the United Provinces Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.



- (c) the balance standing at the credit of the district fund of the district at the commencement of this Act;

and, subject to such exceptions and conditions as the Local Government may make and impose, the following, namely:—

- I of 1871. (d) the surplus accruing under section 18 of the 'Cattle-trespass Act, 1871;
- XVII of 1878. (e) the proceeds of public ferries payable into the district fund under section 7A and under clauses (a) and (b) of section 17 of the <sup>2</sup>Northern India Ferries Act, 1878;
- (f) receipts from encamping grounds under the regulation of the board;
- (g) the sale proceeds of grass and of the produce of trees on the sides of roads and on other public grounds under the control and administration of the board, and of timber fallen or felled thereon;
- (h) receipts from property vested in the board and interest on the board's investments;
- (i) rents and profits accruing from property placed by the Local Government under the management of the board;
- (j) sums contributed to the district fund by local bodies or private persons, and the receipts on account of charities and trusts placed under the board's management; and
- (k) all other sums received by or on behalf of the board in the carrying out of this Act.

44. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, the board may fix and levy school fees, fees for the use of sarais and paraos, fees for the use or benefits derived from, any of the works specified in clauses (c) and (e) of sub-section (1) of section 42 or any works originally undertaken as famine preventive or relief works, fees for the service of bulls and stallions<sup>2</sup>, <sup>3</sup> fees at fairs, agricultural shows and industrial exhibitions held under its authority <sup>4</sup>[, and fees to defray the expenditure incurred by the board under rules made under clause (o) of sub-section (1) of section 42.] Levy of Fees.

<sup>5</sup>[44A. Fees imposed under section 44 may be recovered on application to a Magistrate by distress and sale of any movable property within the limits of such Magistrate's jurisdiction belonging to the defaulter.] Recovery of Fees.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> *Supra*, Vol. I. A new clause (ab) was substituted for clauses (a) and (b) of s. 17 of Act 17 of 1878 by s. 16 of the United Provinces Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.

<sup>3</sup> This comma was inserted and the word "and" was deleted by s. 3 (i) of the United Provinces District Boards (Amendment) Act, 1915 (U. P. Act 2 of 1915), *infra*.

<sup>4</sup> This comma was substituted for the full stop and these words were added by s. 3 (ii) of *ibid*.

<sup>5</sup> Section 44A was added by s. 3 (iii) of *ibid*.

Application  
of fund.

45. (1) The board shall set apart and apply out of the district fund—

- (a) *first*, all sums held by the board in trust to the purposes to which such sums are lawfully applicable;
- (b) *secondly*, such sums as may be required for the payments for any amounts falling due on any loan legally contracted by it;
- (c) *thirdly*, such sums as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 32 and 33.

(2) Subject to the charges specified in sub-section (1) and to any rules with respect to the priority to be given to the several duties of the board, the district fund shall be applicable to the payment in whole or in part of the charges and expenses incidental to the different matters specified in section 42, and to any other matter expenditure whereon may be declared by the board, with the general or special sanction of the Local Government, to be an appropriate charge on the district fund.

Vesting,  
custody and  
investment of  
district fund.

46. (1) The district fund shall be vested in the board, and shall be kept in the Government treasury of the district or in the bank to which the Government treasury business has been made over.

(2) The board may, from time to time, with the previous sanction of the Local Government, \* \* \*<sup>1</sup> invest any portion of the district fund in securities of the Government of India or such other securities as the <sup>1</sup>[Local Government] may approve in this behalf, and vary such investment for others of the like nature; and the income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

Property  
vested in  
board.

47. Subject to any special reservation which may be made by the Local Government, all property of the nature specified in this section and situated within the district shall be vested in and belong to the board, and shall, with all other property which may become vested in the board, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say,—

- (a) all public buildings of every description which have been constructed or are maintained out of the district fund;
- (b) all public roads, culverts and bridges which have been constructed or are maintained out of the district fund, and the stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such roads, culverts and bridges; and

<sup>1</sup> The words "and subject to any general or special orders of the Governor General in Council" were omitted and the words "Local Government" substituted for the words "Governor General in Council" by s. 2 and Sch. I of Act 38 of 1920.

- (c) all land or other property transferred to the board by His Majesty or by gift, purchase or otherwise for local public purposes.

48. When any public institution has been placed under the direction, management and control of the board, all property, endowments and funds belonging thereto shall be held by the board in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed: Management of institutions.

Provided that the extent of the independent authority of the board in respect of any such institution may be prescribed by the Local Government:

• Provided also that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the <sup>1</sup>Charitable Endowments Act, 1890. VI of 1890.

49. Where any land is required for the purposes of this Act, the Local Government may, at the request of the board, proceed to acquire it under the provisions of the <sup>1</sup>Land Acquisition Act, 1894, and, on payment by the board of the compensation awarded under the Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board. Acquisition of land under Act I of 1894.

I of 1894.

50. The board may, with the sanction of the Local Government, transfer to His Majesty any property vesting in the board under sections 47, 48, or section 49, but not so as to affect any trusts or public rights subject to which the property is held. Transfer to His Majesty of property vesting in board.

## CHAPTER IV.

### CONTROL.

51. (1) The Commissioner or the district magistrate may,—

- (a) enter on and inspect, or cause to be entered on and inspected, any immovable property situate within the limits of the division or district and occupied by any board or joint committee, or any work in progress within those limits under the direction of any such board or committee; Control of Commissioner or magistrate over boards and joint committees.
- (b) by order in writing call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

- (c) by order in writing require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and
- (d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

- (a) if it arises between two or more magistrates in the same division to the Commissioner; and
- (b) if it arises between two or more magistrates in different divisions or between two or more Commissioners, to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

Power of  
Commissioner  
to suspend  
action under  
Act.

52. (1) The Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a board, committee or joint committee, or prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act if in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace or to cause injury or annoyance to the public or to any class or body of persons.

(2) When the Commissioner makes any order under this section, he shall, forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force, with or without modification, permanently or for such period as it thinks fit.

Extraordi-  
nary powers  
of magistrate  
in case of  
emergency.

53. (1) In cases of emergency the district magistrate may provide for the execution of any work, or the doing of any act, which a board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the district magistrate may make an order directing the person having the custody of the balance of the district fund to pay the expense, or as much thereof as is from time to time possible, from that balance, in priority to any or all other charges against the same.

(3) The district magistrate shall forthwith report to the Commissioner every case in which he uses the powers conferred on him by this section.

54. (1) If at any time it appears to the Local Government that a board has made default in performing, or has inefficiently performed, any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, direct the board to perform that duty or to take such measures as the Local Government may think proper for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

Powers of Local Government in case of default of board.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the district magistrate to execute it, and may direct that the expense of executing it shall be paid, within such time as it may fix, to the district magistrate by the board.

(3) If the expense is not so paid, the district magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is from time to time possible, from that balance, in priority to any or all other charges against the same.

55. (1) If in the opinion of the Local Government a board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other Act, or exceeds or abuses its powers, or fails to obey an order of the Local Government under section 54 directing it to take any action it is lawfully competent to take, the Local Government may,\* \* \*<sup>1</sup> by an order published, with the reasons for making it, in the Gazette, declare the board to be incompetent or in default, or to have exceeded or abused its powers, or to have failed to obey an order of the Local Government, as the case may be, and supersede it for a period to be specified in the order.

Power to supersede board in case of incompetency, persistent default or abuse of powers.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) all members of the board and all members of committees appointed by it shall, as from the date of order, vacate their offices as such members;

(b) all powers and duties of the board shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf; and

(c) all property vested in the board shall, during the period of supersession, vest in His Majesty.

<sup>1</sup>The words "with the previous approval of the Governor General in Council" were omitted by s. 2 and Sch. I of Act 38 of 1920.

(3) During the period of supersession the Secretary of State for India in Council shall discharge any liabilities incurred by the board before such supersession, to the extent of any income derived by the exercise of powers or performance of duties by any person or persons appointed by the Local Government under clause (b) of sub-section (2) and of any property vested in His Majesty under clause (c) of that sub-section, and a notice in writing duly left at the office of a board, before its supersession, in compliance with the provisions of section 39 shall, during the period of such supersession, have the same force and effect against the said Secretary of State for India in Council as if it had been delivered to or left at the office of a Secretary of the Local Government or the Collector of the district in compliance with the provisions of section 424 of the Code of Civil Procedure.

XIV of 1882.

(4) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for being members.

Power of Local Government to frame forms and make rules.

56. (1) The Local Government may frame forms for any proceeding of a board for which it considers that a form should be provided, and may, after previous publication, make rules consistent with this Act, and applicable to all or any districts,—

- (a) to regulate and control the powers of a board and to prescribe its duties and the priority, if any, to be given to any of such duties;
- (b) as to the term of office of the chairman and other members of a board;
- (c) as to the qualifications of electors and of candidates for election as members;
- (d) as to the registration of electors;
- (e) as to the nomination of candidates, the time of election and the mode of recording votes;
- (f) generally for regulating all elections under this Act;
- (g) as to the appointment of members of a board;
- (h) as to the cases in which, and the conditions subject to which, the Commissioner may appoint a new member to fill the seat of an appointed member which has become vacant by his resignation, removal or death;
- (i) as to the classes of business which must be transacted at a special meeting;
- (j) as to the classes of questions coming before any meeting of a board which shall not be decided by a majority of the votes of the members present, and, in any such case, the manner in which the decision of the board shall be ascertained.

- (k) as to the authority on which the money may be paid from the district fund;
- (l) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned and the agency by which such works shall be constructed;
- (m) as to the conditions on which property may be acquired by a board, or on which property vested in a board may be transferred by sale, mortgage, lease, exchange or otherwise;
- (n) as to the intermediate offices (if any) through which correspondence between boards and the Local Government, or officers of that Government, and representations addressed to the Local Government under this Act, shall pass;
- (o) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;
- (p) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned;
- (q) as to the returns, statements and reports to be submitted by boards;
- (r) as to the conditions subject to which a board may appoint committees to assist it in the discharge of any specified duties or may delegate to any such committee all or any of the powers of a board;
- (s) as to the sanction requisite for the employment by the boards of its officers and servants, and for the pay to be assigned to them;
- (t) as to the conditions subject to which a board may—
  - (i) establish, maintain and contribute to a provident fund and compel any or every officer or servant of the board, who is not a Government official, to contribute to it;
  - (ii) purchase or arrange for any such officer or servant an annuity on his retirement, or
  - (iii) subscribe in his behalf for pension, gratuities and leave allowances in accordance with any general or special orders of the Governor General in Council <sup>1</sup>[or Local Government] in force for the time being;

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<sup>1</sup> These words were inserted by s. 2 and Sch. I of Act 38 of 1920.

(u) as to the conditions subject to which a board may give an extraordinary pension or gratuity—

(i) to any officer or servant injured in the execution of his duty, or

(ii) to the family of any officer or servant, who is killed in the execution of his duty, or whose death is due to devotion to duty;

(v) as to the qualifications requisite in the case of persons appointed to offices requiring professional skill;

<sup>1</sup>[(w) to regulate any trade or business of the nature described in clause (o) of sub-section (I) of section 42;]

<sup>2</sup>(x) as to the language of the board; and

<sup>2</sup>(y) generally, for the guidance of boards and officers of Government in all matters connected with the carrying out of this Act and for settling their relations to one another.

(2) Rules under clause (f) of sub-section (I) may, among other matters, provide—

(i) for the investigation of allegations of corrupt practices or intimidation at elections;

(ii) for making void the election of any person proved to have been guilty of corruption or intimidation, or to have connived at or abetted the exercise of corruption or intimidation on his behalf by any other persons;

(iii) for rendering incapable of membership, either permanently or for a term of years, any person whose election may have been made void as aforesaid for corruption or intimidation or for connivance at or abetment of the same;

(iv) for the definition of the practices at elections which are to be deemed to be corrupt or to amount to intimidation; and

(v) for prescribing the authority by which questions relating to the matters referred to in clauses (c), (d), and (e) of sub-section (I) shall be determined.

(3) In making rules under clauses (c) to (f), both inclusive, <sup>3</sup>[and clause (w)] of sub-section (I), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees <sup>4</sup>[and when the breach is a continuing breach with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.]

<sup>1</sup> This clause was added by s. 4 (i) of the United Provinces District Boards (Amendment) Act, 1915 (U. P. Act 2 of 1915), *infra*.

<sup>2</sup> These letters and brackets were substituted for the letters and brackets "(w)" and "(x)" by s. 4 (ii), *ibid*.

<sup>3</sup> These words, brackets and letters were inserted by s. 4 (iii) of *ibid*.

<sup>4</sup> The full stop was deleted and these words were added by s. 4 (iv) of *ibid*.



UNITED PROVINCES ACT II OF 1907.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[6th September, 1907; 11th October, 1907.]

An Act to amend the law relating to vaccination in the United Provinces.

WHEREAS it is expedient to amend the law relating to vaccination in the United Provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the United Provinces Vaccination Law Short title and extent.  
 • Amendment Act, 1907; and

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

XIII of 1880. 2. In the title of the <sup>2</sup>Vaccination Act, 1880 (hereinafter referred to as “the said Act”), the word “and” shall be omitted between the words “municipalities” and “cantonments”; and the words “and notified areas” shall be added after the word “cantonments.” Amendment of title, Act XIII, 1880.

3. In the preamble to the said Act the word “and” shall be omitted Amendment of preamble, Act XIII, 1880.  
 • between the words “municipalities” and “cantonments;” and after the word “cantonments” the words “and notified areas as defined in section 193 of the <sup>2</sup>United Provinces Municipalities Act, 1900,” shall be added.  
 U.P. Act I of 1900.

4. “In section 1 of the said Act the word “and” shall be omitted between the words “municipalities” and “cantonments;” and after the word “cantonments” the words “and notified areas” shall be inserted. Amendment of section 1, Act XIII, 1880.

5. In section 2, clause (6), of the said Act the word “or” shall be omitted between the words “municipality” and “cantonment;” and after the word “cantonment,” the words “or notified area” shall be inserted. Amendment of section 2, clause (6), Act XIII, 1880.

6. After section 3 of the said Act, the following section shall be inserted, namely:—  
 [Vol. I of this Code, p. 210.] Insertion of new section after section 3, Act XIII, 1880.

7. In section 5 of the said Act, after the word “municipality” the words “or notified area” shall be inserted. Amendment of section 5, Act XIII, 1880.

8. After section 19 of the said Act, the following section shall be inserted, namely:—  
 [Vol. I of this Code, p. 214.] Insertion of new section after section 19, Act XIII, 1880.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1907, Pt. VI, p. 92; and for Proceedings in Council, see *ibid*, 1907, Pt. VI, p. 106.

<sup>2</sup> *Supra*, Vol. I.

<sup>3</sup> See now the United Provinces Municipalities Act, 1916 (U. P. Act 2 of 1916), *infra*.

Amendment  
of section  
21, Act XIII,  
1880.

9. In section 21 of the said Act, after the word "nineteen" the word and letter "nineteen A" shall be inserted.

Amendment  
of section  
22, class (c),  
Act XIII,  
1880.

10. In section 22, clause (c), of the said Act, after the word "nineteen" the word and letter "nineteen A" shall be inserted.

Amendment  
of section  
23, Act XIII,  
1880.

11. In section 23 of the said Act, after the word "municipality," the words "or notified area" shall be inserted; and after the word "fund," the words "or notified area fund" shall be added.

Incorporation  
of Act in Act  
XIII, 1880.

12. This Act shall be read with, and deemed to form part of, the Vaccination Act, 1880.

XIII of 1880.

### UNITED PROVINCES ACT III of 1910.<sup>2</sup>

[APPLIES TO OUDH.]

[12th December, 1909; 21st February, 1910.]

An Act further to amend the 'Oudh Estates Act, 1869.

WHEREAS according to the construction which has been placed upon certain provisions of the 'Oudh Estates Act, 1869, some estates or portions of estates of taluqdars and grantees whose names are entered in the lists prepared under section 8 of the said Act, which were intended to be or were formerly subject to the said Act, are not, or have ceased to be so subject, and whereas it is expedient that such estates and portions of estates should, as far as possible, be made subject to the said Act; and whereas doubts have arisen regarding other provisions of the said Act and it is expedient to remove such doubts; and whereas it is further expedient to make other provisions with respect to the estates and other immoveable property of taluqdars and grantees and their heirs and legatees; It is hereby enacted as follows:—

Short title.

1. This Act may be cited as the Oudh Estates (Amendment) Act, 1910.

Amendment  
of section 2,  
Act I, 1869.

2. (1) In section 2 of the 'Oudh Estates Act, 1869, for the definitions I of 1869. of "transfer," "signed," "grantee," "estate," "heir" and "legatee" the following definitions shall be substituted, namely:—

[Vol. I. of this Code, pp. 107 and 108.]

<sup>1</sup> *Supra*, Vol. I.

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1909, Pt. VII, p. 115; for Report of Select Committee, see *ibid*, 1909, Pt. VII, p. 128; and for Proceedings in Council, see *ibid*, 1909, Pt. VII, pp. 48, 163 and 231.

(2) In section 2 of the said Act, after the definition of the word "sign," the following definition shall be inserted, namely:—

[Vol. I of this Code, p. 107.]

3. In the last clause of section 3 of the said Act, between the words "conditions" and "contained," the words "other than those relating to succession" shall be inserted, and at the end of that section the following explanation shall be added:—

Amendment  
of section 3,  
Act I, 1869.

[Vol. I of this Code, p. 109.]

4. In the first clause of section 11 of the said Act, between the words "conditions" and "under," the words "other than those relating to succession" shall be inserted.

Amendment  
of section 11,  
Act I, 1869.

5. For section 13 of the said Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 13,  
Act I, 1869.

[Vol. I of this Code, p. 112.]

6. After section 13 of the said Act, the following section shall be inserted, namely:—

Insertion of  
new section  
after section  
13, Act I,  
1869.

[Vol. I of this Code, p. 112.]

7. For section 14 of the said Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 14,  
Act I, 1869.

[Vol. I of this Code, p. 113.]

8. For section 15 of the said Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 15,  
Act I, 1869.

[Vol. I of this Code, p. 113.]

9. For section 16 of the said Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 16,  
Act I, 1869.

[Vol. I of this Code, p. 113.]

10. Section 17 of the said Act shall be omitted.

Omission of  
section 17,  
Act I, 1869.

11. For section 18 of the said Act the following section shall be substituted, namely:—

Substitution  
of new section  
for section 18,  
Act I, 1869.

[Vol. I of this Code, p. 114.]

Amendment  
of section 19,  
Act I, 1869.

**12.** In section 19 of the said Act, between the words "legatee" and "under," the words "or by any transferee mentioned in section 14, or by the heir or legatee of such transferee" shall be inserted.

Amendment  
of section 21,  
Act I, 1869.

**13.** In section 21 of the said Act, for the words "'daughter' and 'brother'" the words "brother and 'male agnate'" shall be substituted.

Substitution  
of new section  
for section 22,  
Act I, 1869.

**14.** For section 22 of the said Act, the following section shall be substituted, namely:—

[Vol. I of this Code, p. 115.]

Amendment  
of section 29,  
Act I, 1869.

**15.** From section 29 of the said Act the words "such power" to "and registered" shall be omitted.

Insertion of  
new section  
after section  
29, Act I,  
1869.

**16.** After section 29 of the said Act, the following section shall be inserted, namely:—

[Vol. I of this Code, p. 119.]

Amendment  
of sections 30  
and 31, Act  
I, 1869.

**17.** In sections 30 and 31 of the said Act, for the words "Chief Commissioner of Oudh" and "Chief Commissioner" wherever they occur, the words "Local Government" shall be substituted.

Insertion of  
new section  
after section  
31, Act I,  
1869.

**18.** After section 31 of the said Act, the following section shall be inserted, namely:—

[Vol. I of this Code, p. 120.]

Amendment  
of section 32,  
Act I, 1869.

**19.** In section 32 of the said Act, for the words "transfer or bequest" wherever they occur, the words "transfer, bequest or declaration" shall be substituted.

Insertion of  
new section  
after section  
32, Act I,  
1869.

**20.** After section 32 of the said Act, the following section shall be inserted, namely:—

[Vol. I of this Code, p. 121.]

Saving clause.

**21.** Unless there is something repugnant in the subject or context—

(a) section 2, sub-section (1) of this Act, with the exception of—

(i) clause (b) of the definition of the word "estate;"

(ii) the words "or a mother" in the definition of the word "heir;" and

(b) sections 3, 4, 7 and 8 of this Act,

shall operate retrospectively; but nothing contained in the said sections shall affect suits pending at the commencement of this Act, or shall be deemed to vest in or confer upon any person any right or title to any

estate, or any portion thereof, or any interest therein, which is, at the commencement of this Act, vested in any other person who would have been entitled to retain the same if this Act had not been passed; and the right or title of such other person shall not be affected by anything contained in the said sections.

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## THE UNITED PROVINCES EXCISE ACT, 1910.

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## POWERS AND DUTIES OF OFFICERS, ETC.

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## CHAPTER X.

## OFFENCES AND PENALTIES.

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SCHEDULE.

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UNITED PROVINCES ACT IV OF 1910.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[18th December, 1909; 24th February, 1910.]

WHEREAS it is expedient to consolidate and amend the law in force in the United Provinces relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs; It is hereby enacted as follows:—

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<sup>1</sup>For Statement of Objects and Reasons, see United Provinces Gazette, 1909, Pt. VII, p. 106; for Report of Select Committee, see *ibid*, 1909, Pt. VII, p. 164; and for Proceedings in Council, see *ibid*, 1909, Pt. VII, pp. 3, 44, 125, 162 and 216.

## CHAPTER I.

## PRELIMINARY AND DEFINITIONS.

Short title.	1. (1) This Act may be called the United Provinces Excise Act, 1910; and
Extent.	(2) It extends to the whole of the United Provinces.
Repeal of enactments.	2. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.
Interpretation.	3. In this Act, unless there is something repugnant in the subject or context—
Excise revenue.	(1) "Excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs;
Excise officer.	(2) "Excise officer" means a Collector, or any officer or person appointed or invested with powers under section 10;
Excise Commissioner.	(3) "Excise Commissioner" means the officer appointed by the Local Government under section 10, sub-section (2), clause (a);
Chief Revenue Authority.	(4) "Chief Revenue Authority" means the authority or officer declared by the Local Government, <sup>1</sup> * * * to be the Chief Revenue Authority for the purposes of this Act;
Magistrate.	(5) "Magistrate" means any magistrate exercising powers not less than those of a magistrate of the second class, or any magistrate of the third class specially authorized in this behalf by the District Magistrate;
Tari.	(6) "Tari" means fermented or unfermented juice drawn from a cocoanut, palmyra, date or any other kind of palm tree;
Pachwai.	(7) "Pachwai" means fermented rice, millet or other grain, whether mixed with any liquid or not and any liquid obtained therefrom, whether diluted or undiluted;
Spirit.	(8) "Spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not;
Denatured.	(9) <sup>2</sup> ["Denatured" means rendered unfit for human consumption in such manner as may be prescribed by the Local Government by notification in this behalf. When it is proved

<sup>1</sup> The words "subject to such conditions (if any) as the Governor General in Council may prescribe" were omitted by s. 2 and Sch. I of Act 38 of 1920.

<sup>2</sup> This clause was substituted by s. 6 of the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *vide*

that any spirit contains any quantity of any substance prescribed by the Local Government for the purpose of denaturation the Court may presume that such spirit is or contains or has been derived from denatured spirit.]

- (10) "Beer" includes ale, stout, porter and all other fermented Beer.  
liquors made from malt;
- (11) "Liquor" means intoxicating liquor and includes spirits of Liquor.  
wine, spirit, wine, tari, pachwai, beer and all liquid consisting of or containing alcohol; also any substance which the Local Government may by notification declare to be liquor for the purposes of this Act;
- <sup>1</sup>(12) ["Intoxicating drug" includes (a) cocaine, (b) *ganja*, *bhang*, Intoxicating  
*charas*, and every preparation and admixture of the same, drug.  
and every intoxicating drink or substance prepared from any part of the hemp plant (*canabis sativa*), from grain or from other material and not included in the term "liquor," but does not include opium or anything included within the meaning of that word as defined in the <sup>2</sup>Opium Act, 1878, (c) any other substance which the Local Government may specify by notification, together with every preparation and admixture of the same.]
- (13) "Excisable article" means any liquor or intoxicating drug as Excisable  
defined by this Act; article.
- (14) "British India" means all territories and places within His British India.  
Majesty's dominions which are for the time being governed by His Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India;
- (15) "India" means British India, together with any territories India.  
of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India;
- (16) "Sale," with its grammatical variations, includes and trans- Sale.  
fer otherwise than by way of gift;
- (17) "Import" means to bring into the United Provinces; Import.
- (18) "Export" means to take out of the United Provinces; Export.
- (19) "Transport" means to move from one place to another with- Transport.  
in the United Provinces;
- (20) "Manufacture" includes every process, whether natural or Manufacture.  
artificial, by which any excisable article is produced or

I of 1878.

<sup>1</sup> This clause was substituted by s. 2 of the United Provinces Excise (Amendment) Act, 1914 (U. P. Act 3 of 1914), *infra*.

<sup>2</sup> Genl. Acts, Vol. II.

- prepared, and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor;
- To bottle. (21) "To bottle" means to transfer from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not; and bottling includes rebottling;
- Place. (22) "Place" includes a house, building, shop, "room", both, tent and vessel;
- Cocaine. (23) Cocaine includes cocoa leaves, any alkaloid or substance prepared from the coca plant and any preparation or admixture of any of the above.]

Power of Local Government to declare what is to be deemed "liquor."

"Country liquor" and "foreign liquor."

4. (1) The Local Government may by notification declare any substance to be "liquor" for the purposes of this Act or any portion thereof:

(2) The Local Government may, \* \* \* in like manner and for the like purposes declare what shall be deemed to be "country liquor" and "foreign liquor" respectively.

<sup>3</sup>[Provided that, where the interests of any other Province may be affected, no declaration shall be made under this sub-section without the previous sanction of the Government of India.]

Power of Local Government to specify intoxicating drugs, etc.

Power of Local Government to declare limit of sale by retail.

5. The Local Government may by notification specify as an intoxicating drug any substance other than those mentioned in section 3 (12) (a), <sup>4</sup>[and (b)] and may in like manner declare what shall be deemed to be *ganja*, *bhanga*, *charas* or other substance so mentioned or specified.

6. (1) The Local Government may by notification declare, with respect either to the whole of the United Provinces or to any local area comprised therein and as regards purchasers generally or any specified class of purchasers, and generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Act, be the limit of sale by retail.

Sale by wholesale.

(2) The sale of any excisable article in any quantity in excess of such quantity as the Local Government has under sub-section (1) declared to be the limit of sale by retail shall be deemed to be sale by wholesale.

Possession of excisable article by wife, clerk or servant.

7. When any excisable article is in the possession of a person's wife, clerk or servant on account of that person, it shall, for the purposes of this Act, be deemed to be in the possession of that person.

<sup>1</sup> The word "room" was inserted by s. 2 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.

<sup>2</sup> This clause was added by s. 3 of the United Provinces Excise (Amendment) Act, 1914 (U. P. Act 3 of 1914), *infra*.

<sup>3</sup> The words "with the previous sanction of the Government of India" were omitted and the proviso in brackets was added by s. 2 and Sch. I of Act 38 of 1920.

<sup>4</sup> This word, brackets and letter were inserted by s. 4 of the United Provinces Excise (Amendment) Act, 1914 (U. P. Act 3 of 1914), *infra*.

*Explanation.*—A person employed temporarily or on a particular occasion in the capacity of clerk or servant is a clerk or servant within the meaning of this section.

VIII of 1878. 8. Save as provided by the Schedule, nothing contained in this Act shall affect the provisions of the Sea Customs Act, 1878,<sup>1</sup> the Cantonments Act, 1889,<sup>2</sup> or the Indian Tariff Act, 1894,<sup>3</sup> or any rule or order made thereunder. Saving of enactments.

## CHAPTER II.

### ESTABLISHMENT AND CONTROL.

9. \* \* \* The local Government may declare any authority or officer to be the Chief Revenue Authority for the purposes of this Act. Power of Local Government to declare Chief Revenue Authority.

10. (1) The administration of the Excise Department in any district shall, unless the Local Government otherwise directs, be under the charge of the Collector of that district. Administration of Excise Department in districts.

(2) The Local Government may by notification applicable to the whole of the United Provinces or to any district or local area comprised therein,— Power of Local Government—

- (a) appoint an officer hereinafter referred to as the Excise Commissioner, who shall, subject to the orders of the Local Government, or where an authority or officer has been declared by the Local Government to be the Chief Revenue Authority subject to the orders of such Chief Revenue Authority, have the control of the administration of the Excise Department, to appoint Excise Commissioner;
- (b) appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the administration of the Excise Department either concurrently with or in subordination to or in exclusion of the Collector, subject to such control as the Local Government may direct; to appoint persons to exercise powers of Collector;
- (c) empower officers to perform the acts and duties mentioned in sections 48 and 64 (a), and empower officers or persons to perform the acts and duties mentioned in section 50; to empower officers or persons to perform certain duties;
- (d) appoint officers of the Excise Department of such classes and with such designations, powers and duties under this Act as the Local Government may think fit, and define the to appoint officers of the Excise Department;

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> See now the Cantonments Act, 1910 (15 of 1910), Genl. Acts, Vol. VII.

<sup>3</sup> Genl. Acts, Vol. IV.

<sup>4</sup> The words "Subject to such conditions (if any) as the Governor General in Council may prescribe" were omitted by s. 2 and Sch. I of Act 38 of 1920.

areas within which such powers and duties may be exercised and performed;

to order  
exercise and  
performance  
of powers  
and duties  
by officers  
other than  
excise officers  
and by other  
persons;  
to delegate  
its powers;

(e) order that all or any of the powers and duties assigned to an officer of the Excise Department under clause (d) of this sub-section shall, subject to the provisions of this Act, be exercised and performed by any officer other than an officer of the Excise Department or by any person;

(f) delegate to the Chief Revenue Authority or to the Excise Commissioner all or any of its powers under this Act, except the power conferred by section 40 to make rules;

to withdraw  
powers;

(g) withdraw from any officer or person any or all of his powers in respect of the administration of the Excise Department;

to permit  
delegation of  
powers;

(h) permit the delegation by the Chief Revenue Authority, the Excise Commissioner or Collector to any person or classes of persons specified in such notification of any powers conferred by or under this Act or by or under any other law for the time being in force relating to excise revenue.

Collector  
subject to  
control of the  
Excise Com-  
missioner.

11. (1) The Collector shall in all proceedings under this Act be subject to the control of the Excise Commissioner, and all orders passed by a Collector under this Act shall be appealable to the Excise Commissioner in manner provided by such rules as the Local Government may frame in this behalf.

Revision of  
orders passed  
by Collector  
or Excise  
Commis-  
sioner.

(2) The Local Government, or, if there be a Chief Revenue Authority, the Chief Revenue Authority may revise any orders passed by the Collector or by the Excise Commissioner.

### CHAPTER III.

#### IMPORT, EXPORT AND TRANSPORT.

Import of  
excisable  
articles.

12. (1) No excisable article shall be imported unless—

(a) the Local Government has given permission, either general or special, for its import;

(b) such conditions (if any) as the Local Government may impose have been satisfied; and

(c) the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof.

(2) Sub-section (1) shall not apply to any article which has been imported into British India and was liable on such importation to duty under the Indian Tariff Act, 1894,<sup>1</sup> or the Sea Customs Act, 1878.<sup>2</sup>

VIII of 1894.  
VIII of 1878.

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> Genl. Acts, Vol. II.

(3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in British India and declared under section 4 to be foreign liquor.

13. No excisable article shall be exported or transported unless—

Export and transport of excisable articles.

(a) the duty (if any) imposed under section 28; or

VIII of 1894.  
VIII of 1878.

(b) if the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1894,<sup>1</sup> or the Sea Customs Act, 1878,<sup>2</sup>

has been paid, or a bond has been executed for the payment thereof.

14. The Local Government may by notification—

Power of Local Government to prohibit import, export and transport of excisable articles.

(a) \* \* \* prohibit the import or export of any excisable article into or from the United Provinces or any part thereof; or

(b) prohibit the transport of any excisable article:

<sup>3</sup>[Provided that, where the interests of any other Province may be affected, no notification shall be issued under clause (a) without the previous sanction of the Government of India.]

15. No excisable article exceeding such quantity as the Local Government may prescribe by notification, either generally for the whole of the United Provinces or for any local area comprised therein, shall be imported, exported or transported except under a pass issued under the provisions of the next following section:

Passes necessary for import, export and transport.

Provided that in the case of duty-paid foreign liquor other than denatured spirit such passes shall be dispensed with, unless the Local Government shall by notification otherwise direct with respect to any local area:

Provided also, unless the Local Government shall otherwise direct, that no pass shall be required for the transport of any excisable article exported under a pass issued by an officer duly authorized in this behalf from any place beyond the limits of the United Provinces to any other place beyond the said limits.

16. Passes for the import, export or transport of excisable articles may be granted by the Collector.

Grant of passes for import, export and transport.

Such passes may be either general for definite periods and kinds of excisable articles or special for specified occasions and particular consignments only.

<sup>1</sup> General Acts, Vol. IV.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> The words "with the sanction of the Governor General in Council" were omitted and the proviso was added by s. 2 and Sch. I of Act 38 of 1920.

## CHAPTER IV

## MANUFACTURE, POSSESSION AND SALE.

Manufacture of excisable articles prohibited except under the provisions of this Act.

17. (1) (a) No excisable article shall be manufactured;  
 (b) no hemp plant (*cannabis sativa*) shall be cultivated;  
 (c) no portion of the hemp plant (*cannabis sativa*) from which any intoxicating drug can be manufactured shall be collected;  
 (d) no liquor shall be bottled for sale; and  
 (e) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than tari.

except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector.

(2) No distillery or brewery shall be constructed or worked except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner under section 18.

Establishment or licensing of distilleries and warehouses.

18. The Excise Commissioner may—

- (a) establish a distillery in which spirit may be manufactured under a licence granted under section 17 on such conditions as the Local Government deems fit to impose;  
 (b) discontinue any distillery so established;  
 (c) license, on such conditions as the Local Government deems fit to impose, the construction and working of a distillery or brewery;  
 (d) establish or license a warehouse wherein any excisable article may be deposited and kept without payment of duty; and  
 (e) discontinue any warehouse so established.

Removal of excisable article from distillery, etc.

19. No excisable article shall be removed from any distillery, brewery, warehouse, or other place of storage established or licensed under this Act, unless the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof.

Possession of excisable articles in excess of the quantity prescribed by Government prohibited except under permit. Exceptions.

20. (1) No person not being licensed to manufacture, cultivate, collect or sell any excisable article shall have in his possession any quantity of any excisable article in excess of such quantity as the Local Government has under section 6 declared to be the limit of sale by retail except under a permit granted by the Collector in that behalf.

(2) Sub-section (1) shall not extend to—

- (a) any foreign liquor (other than denatured spirit) in the possession of any common carrier or warehouseman as such;  
 or  
 (b) any foreign liquor which has been purchased by any person for his *bond fide* private consumption and not for sale.



(3) A licensed vendor shall not have in his possession at any place other than that authorized by his licence any quantity of any excisable article in excess of such quantity as the Local Government has under section 6 declared to be the limit of sale by retail, except under a permit granted by the Collector in that behalf.

(4) Notwithstanding anything contained in the foregoing sub-sections the Local Government may by notification prohibit the possession by any person or class of persons, either in the United Provinces or in any specified local area, of any excisable article, or restrict such possession by such conditions as it may prescribe.

Prohibition and restriction of possession of excisable articles in certain cases.

21. No excisable article shall be sold without a licence from the Collector; provided that—

Sale of excisable articles without license prohibited.

- (1) a person licensed under section 17 to cultivate or collect hemp plant (*cannabis sativa*) may sell without a license those portions of the plant from which any intoxicating drug can be manufactured to any person licensed under this Act to deal in the same or to any officer whom the Excise Commissioner may prescribe;
- (2) a licence for sale in more than one district of the United Provinces shall be granted only by the Excise Commissioner;
- (3) nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

22. No licensed vendor and no person in the employ of such vendor and acting on his behalf shall sell or deliver any spirit or intoxicating drug to any person apparently under the age of sixteen years whether for consumption by such person or by any other person and whether for consumption on or off the premises of such vendor.

Prohibition of sale to persons under the age of sixteen years.

23. (1) No person who is licensed to sell foreign liquor or country spirits for consumption on his premises shall, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any child under the age of fourteen years, in any part of such premises in which such liquor or spirit is consumed by the public.

Prohibition of employment of children under the age of fourteen years and of women.

(2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous permission in writing of the Chief Revenue Authority, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman in any part of such premises in which liquor is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the licence, and may be modified or withdrawn.

Grant of  
exclusive  
privilege of  
manufacture,  
etc.

24. Subject to the provisions of section 31 the Excise Commissioner may grant to any person a licence for the exclusive privilege—

- (1) of manufacturing or of supplying by wholesale, or of both,  
or
- (2) of selling by wholesale or by retail, or
- (3) of manufacturing or of supplying by wholesale, or of both,  
and of selling by retail,

any country liquor or intoxicating drug within any local area.

Manufacture  
and sale of  
liquor in  
military can-  
tonments.

25. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case may prescribe, no licences for the manufacture or sale of liquor or for an exclusive privilege in respect of liquor under section 24 shall be granted unless with the consent of the Commanding Officer.

Grantee of  
exclusive  
privilege may  
let or assign.

26. Subject to the conditions of his licence the grantee of any exclusive privilege may let or assign the whole or any portion of his privilege; but no lessee or assignee of such privilege or portion of a privilege shall exercise any rights as such unless and until a licence has been granted to him by the Excise Commissioner on application made by the grantee.

Recovery by  
grantee of  
exclusive  
privilege of  
sums due to  
him.

27. Any grantee, lessee or assignee as aforesaid may recover from any person holding under him any money due to him in his capacity of grantee, lessee or assignee as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant:

Provided that nothing contained in this section shall affect the right of any such grantee, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

## CHAPTER V.

### DUTIES AND FEES.

Duty on exci-  
sable articles.

28. A duty, at such rate or rates as the Local Government shall direct may be imposed, either generally or for any specified local area, on any excisable article—

- (a) imported in accordance with the provisions of section 12  
(1); or
- (b) exported in accordance with the provisions of section 13; or
- (c) transported; or
- (d) manufactured, cultivated or collected under any licence  
granted under section 17; or
- (e) manufactured in any distillery established, or any distillery  
or brewery licensed, under section 18;

VIII of 1894,  
VIII of 1878.

Provided as follows:—

- (i) duty shall not be so imposed on any article which has been imported into British India and was liable on such importation to duty under the Indian Tariff Act, 1894,<sup>1</sup> or the Sea Customs Act, 1878;<sup>2</sup>

- (ii) the duty on denatured spirit or beer manufactured in India shall, unless the Local Government, with the previous sanction of the Governor General in Council, otherwise directs, be equal to the duty to which denatured spirit or beer respectively imported into British India by sea is liable under the Indian Tariff Act, 1894, or any other law for the time being in force relating to the duties of customs on goods imported into British India.

*Explanation.*—Duty may be imposed under this section at different rates according to the places to which any excisable article is to be removed for consumption, or according to the varying strengths and quality of such article.

29. Subject to such rules as the Chief Revenue Authority may prescribe to regulate the time, place and manner of payment, such duty may be levied in one or more of the following ways as the Local Government may by notification direct:—

- (a) in the case of excisable articles imported under section 12 (1)—
- (i) by payment either in the province of import or in the province or territory of export; or
  - (ii) by payment upon issue for sale from a warehouse established or licensed under section 18 (d);
- (b) in the case of excisable articles exported under section 13—
- by payment either in the province of export or in the province or territory of import;
- (c) in the case of excisable articles transported—
- (i) by payment in the district from which the excisable article is to be transported; or
  - (ii) by payment upon issue for sale from a warehouse established or licensed under section 18 (d);
- (d) in the case of intoxicating drugs manufactured under any licence granted under section 17 (1)—
- (i) by a rate charged upon the quantity manufactured under a licence granted under the provisions of section 17 (1) (a), or issued from a warehouse established or licensed under section 18 (d);

<sup>1</sup> Genl. Acts, Vol. IV.  
<sup>2</sup> Genl. Acts, Vol. II.

- (ii) where the intoxicating drug is manufactured from hemp plant (*cannabis sativa*) cultivated or collected under a licence granted under the provisions of section 17 (i) (b) and (c), by an acreage rate levied on the cultivation, or by a rate charged upon the amount collected;
- (c) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under section 18—
  - (i) by a rate charged upon the quantity produced or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under section 18 (d);
  - (ii) by a rate charged in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the Local Government may prescribe:

Provided that, where payment is made upon issue of an excisable article for sale from a warehouse established or licensed under section 18 (d), it shall be at the rate of duty which is in force on that article on the date when it is issued from the warehouse.

Payment for  
exclusive  
privilege.

30. Instead of or in addition to any duty leviable under this chapter the Excise Commissioner may accept payment of a sum in consideration of the grant of the licence for any exclusive privilege under section 24.

## CHAPTER VI.

### LICENCES, PERMITS AND PASSES.

Form and  
conditions of  
licenses, etc.

31. Every licence, permit or pass granted under this Act shall be granted—

- (a) on payment of such fees (if any),
- (b) subject to such restrictions and on such conditions,
- (c) shall be in such form and contain such particulars, as the Chief Revenue Authority may direct either generally or in any particular instance in this behalf; and
- (d) shall be granted for such period as the Local Government may, in like manner, direct.

Saving of  
licences in  
force at the  
commence-  
ment of this  
Act.

32. Every licence which was granted under any section of the Excise XII of 1896. Act, 1896,<sup>1</sup> and is in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of this

<sup>1</sup> Repealed by this Act—see Schedule, *infra*.

Act, and shall (unless previously cancelled, suspended, withdrawn or surrendered under this Chapter) remain in force for the period for which it was granted.

33. Any authority granting a licence under this Act may require the grantee to execute a counterpart agreement in conformity with the tenor of his licence and to give such security for the performance of such agreement or to make such deposit in lieu of security as such authority may think fit.

Power of authority granting licence to require execution of counterpart agreement, etc.

34. (1) Subject to such restrictions as the Local Government may prescribe, the authority granting any licence, permit or pass under this Act may cancel or suspend it—

Power to cancel or suspend licences, etc.

(a) if any duty or fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder of such licence, permit or pass, or by his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions of such licence, permit or pass; or

(c) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the <sup>1</sup>Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the <sup>2</sup>Indian Penal Code; or

(d) where a licence, permit or pass has been granted on the application of the grantee of an exclusive privilege under this Act, on the requisition in writing of such grantee; or

(e) if the conditions of the licence or permit provide for such cancellation or suspension at will.

(2) When a licence, permit or pass held by any person is cancelled under clause (a), (b) or (c) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person under this Act or under any other law for the time being in force relating to excise revenue or under the Opium Act, 1878.<sup>3</sup>

(3) The holder shall not be entitled to any compensation for the cancellation or suspension of his licence, permit or pass under this section nor to a refund of any fee paid or deposit made in respect thereof.

No compensation or refund claimable for cancellation or suspension of licence, etc., under this section.

IV of 1889.  
XLV of 1860.

I of 1878.

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. II.

Further  
power to  
cancel licences.

35. (1) Whenever the authority granting a licence under this Act considers that such licence should be cancelled for any cause other than those specified in section 34 it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may cancel the licence either—

- (a) on the expiration of fifteen days' notice in writing of its intention to do so, or
- (b) forthwith, without notice.

Compensation in the case of cancellation.

(2) If any licence be cancelled under clause (b) of sub-section (1), in addition to the sum remitted as aforesaid, there shall be paid to the licensee such further sum by way of compensation as the Excise Commissioner may direct.

Refund of fee or deposit.

(3) When a licence is cancelled under this section, any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount (if any) due to Government.

Surrender of licence to sell by retail.

36. Any holder of a licence to sell by retail under this Act may surrender his licence on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the licence for the whole period for which it would have been current but for such surrender:

Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering such a licence, he may remit to the holder thereof the sum so payable on surrender, or any portion thereof.

*Explanation.*—The words "holder of a licence" as used in this section, include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.

Technical irregularities in licence, etc.

37. (1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

## CHAPTER VII.

### GENERAL PROVISIONS.

Measures, weights and testing instruments.

38. Every person who manufactures or sells any excisable article under a licence granted under this Act shall be bound—

- (a) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition; and

- (b) when such measures, weights and instruments have been prescribed, on the requisition of any excise officer duly empowered in that behalf, at any time to measure weigh or test any excisable article in his possession in such manner as the said excise officer may require.

39. All excise revenue, including all amounts due to Government by any person on account of any contract relating to the excise revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), as arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force. In case of default made by a holder of a licence the Collector may take the grant for which the licence has been given under management at the risk of the defaulter, or may declare the grant forfeited and resell it at the risk and loss of the defaulter. When a grant is under management under this section, the Collector may recover as excise revenue any moneys due to the defaulter by any lessee or assignee:

Recovery of excise revenue.

Provided that no licence for an exclusive privilege granted under section 24 shall be forfeited or resold without the sanction of the authority granting the licence

40.(1) The Local Government may make rules for the purpose of carrying out the provisions of this Act or other law for the time being in force relating to excise revenue.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, the Local Government may make rules—

- (a) regulating the delegation of any powers by the Chief Revenue Authority, the Excise Commissioner or Collector under section 10 (2) (h);
- (b) prescribing the powers and duties of officers of the excise department;
- (c) regulating the manner in which appeals shall be made to the Excise Commissioner;
- (d) regulating the import, export, transport or possession of any excisable article;
- (e) regulating the periods and localities for which, and the persons to whom, licences for the vend by wholesale or by retail of any excisable article may be granted;
- (f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such vend is granted for any locality;
- (g) for the prohibition of the sale of any excisable article to any person or class of persons;
- (h) for the grant of expenses to witnesses and compensation for loss of time to persons released under section 49 on the

ground that they have been improperly arrested and to persons charged before a magistrate with offences punishable under this Act but acquitted;

- (i) regulating the power of excise officers to summon witnesses from a distance under the provisions of section 49;
- (j) for declaring the excise officers to whom, and the manner in which, information or aid should be given under section 56;
- (k) for the prohibition of the employment by the licence-holder of any person or class of persons to assist in his business in any capacity whatsoever;
- (l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises, and the meeting or remaining of persons of bad character in such premises.

(3) The power conferred by this section for making rules is subject to the condition that the rules be made after previous publication:

Provided that any such rules may be made without previous publication if the Local Government considers that they should be brought into force at once.

#### 41. The Chief Revenue Authority may make rules—

- (a) regulating the manufacture, supply, storage or sale of any excisable article including—
  - (i) the erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article, and the fittings, implements and apparatus to be maintained therein;
  - (ii) the cultivation of the hemp plant (*cannabis sativa*);
  - (iii) the collection of portions of the hemp plant (*cannabis sativa*) from which any intoxicating drug can be manufactured and the manufacture of any intoxicating drug therefrom;
- (b) regulating the deposit of any excisable article in a warehouse and the removal of any excisable article from any such warehouse or from any distillery or brewery;
- (c) prescribing the scale of fees or the manner of fixing the fees payable in respect of any licence, permit or pass, or of the storing of any excisable article;

*Explanation.*—Fees may be prescribed under this sub-clause at different rates for different classes of licenses, permits, passes or storage, and for different areas.

- (d) regulating the time, place and manner of payment of any duty or fee;



(e) prescribing the restrictions under and the conditions on which any licence, permit or pass may be granted, including provision for the following matters:—

- (z) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable;
  - (ii) the regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength;
  - (iii) the fixing of the strength, price or quantity in excess of or below which any excisable article shall not be sold or supplied, and of the quantity in excess of which denatured spirit shall not be possessed, and the prescription of a standard of quality for any excisable article;
  - (iv) the prohibition of sale except for cash;
  - (v) the fixing of the days and hours during which any licensed premises may or may not be kept open and the closure of such premises on special occasions;
  - (vi) the specification of the nature of the premises in which any excisable article may be sold and the notices to be exposed at such premises;
  - (vii) the form of the accounts to be maintained and the returns to be submitted by licence-holders; and
  - (viii) the regulation of the transfer of licences;
- (f) (i) declaring the process by which spirit manufactured in British India shall be denatured;
- (ii) for causing such spirit to be denatured through the agency or under the supervision of its own officers;
- (iii) for ascertaining whether such spirit has been denatured;
- (g) providing for the destruction or other disposal of any excisable article deemed to be unfit for use;
- (h) regulating the disposal of confiscated articles.

## CHAPTER VIII.

### SPECIAL PROVISIONS RELATING TO THE MANUFACTURE, SUPPLY AND SALE OF TARI.

42. In local areas where the Local Government so notifies—

- (a) no tari-producing tree shall be tapped;
- (b) no tari shall be drawn from any tree,

Manufacture  
of tari.

except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector or under the provisions of section 45:

Provided that in any such local area the Local Government may by notification declare that these provisions shall not apply to trees tapped or tari drawn under such special conditions as the Excise Commissioner may prescribe.

Sale of tari.

43. In any such area as aforesaid a person having the right to the tari drawn from any tree may sell the same without a licence to a person licensed to manufacture or sell tari under this Act.

Power of Local Government to exempt from provisions of section 42 area in which exclusive privilege for manufacture, etc., of tari has been granted. Grant of licence by grantee of exclusive privilege of manufacturing tari.

44. Where a licence for the exclusive privilege of manufacture, supply or sale of tari in any local area has been granted under the provisions of section 24, the Local Government may by notification direct that the provisions of section 42 shall not apply to such area.

Duty on tari.

45. Where a licence for the exclusive privilege of manufacturing tari has been granted under section 24, the Local Government may declare that the written permission of the grantee to draw tari shall have the same force and effect as a licence from the Collector for that purpose under section 42.

46. A duty at such rate or rates as the Local Government shall direct may be imposed either generally or for any specified local area, on any tari manufactured under any licence granted under section 42. Such duty may be levied by a tax on each tree from which tari is drawn.

Power to make rules.

47. In particular and without prejudice to the generality of the foregoing provisions the Local Government may make rules regulating the tapping of tari-producing trees and the drawing of tari from such trees, the marking of such trees and the maintenance of such marks in any area to which the provisions of section 42 have been applied.

## CHAPTER IX.

### POWERS AND DUTIES OF OFFICERS, ETC.

Power to enter and inspect places of manufacture and sale.

48. The Excise Commissioner, or a Collector, or any <sup>1</sup>[officer of the Excise Department] not below such rank as the Local Government may prescribe, or any police officer duly empowered in that behalf, may

<sup>1</sup> These words were substituted for the words "other excise officer" by s. 2 of the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *infra*.

enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of or stores any excisable article; and may enter and inspect, at any time within the hours during which sale is permitted, and at any other time during which the same may be open, any place in which any excisable article is kept for sale by any licensed person; and may examine, test, measure or weight any materials, still, utensils, implements, apparatus or excisable article found in such place; and may seize any measures, weights or testing instruments which he has reason to believe to be false.

49. (1) <sup>1</sup>[A police officer not below the rank of an officer in charge of a police station and an officer of the Excise Department not below such rank as the Local Government may prescribe may investigate] into any offence punishable under this Act committed within the limits of the area in which such officer exercises jurisdiction.

Power of  
excise officers  
to investigate  
into offences  
punishable  
under this  
Act.

(2) <sup>1</sup>[Any such officer may] exercise the same powers in respect of such investigation as an officer in charge of a police station may exercise in a cognizable case under the provisions of Chapter XIV of the Code of Criminal Procedure, 1898,<sup>2</sup> and if specially empowered in that behalf by the Local Government, such officer may, without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence punishable under this Act into which he has investigated.

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50. Any officer of the Excise, Police, Salt, Opium or Land Revenue Departments, not below such rank and subject to such restrictions as the Local Government may prescribe, and any other person duly empowered in this behalf, may arrest without warrant any person found committing an offence punishable under section 60, section 62, section 63 or section 65; and may seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Act, or other law for the time being in force relating to excise revenue; and may detain and search any person upon whom, and any vessel, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

Powers of  
arrest, seizure  
and deten-  
tion.

51. The Collector may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under section 60, <sup>3</sup>[section 60A,] section 62, section 63 or section 65.

Power of  
Collector to  
issue warrant  
of arrest.

<sup>1</sup> These words were substituted for the words "The Local Government may by notification invest any excise officer not below such rank as the Local Government may prescribe, with power to investigate" and "Every officer so empowered may within such limits," by ss. 3 (1) and 3 (2), respectively, of the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *infra*.

<sup>2</sup> Genl. Acts, Vol. V.

<sup>3</sup> The words and figures "section 60A" were inserted by s. 3 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.

Power of  
Collector or  
Magistrate to  
issue a search-  
warrant.

52. If a Collector or a Magistrate, upon information obtained, has reason to believe that an offence punishable under section 60, section 62, section 63 or section 65 has been or is likely to be committed, he may issue a warrant for the search for any excisable article, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been or is likely to be committed.

Power of  
Collector or  
Excise officer  
to search  
without war-  
rant.

53. (1) <sup>1</sup>[Whenever a Collector or an officer of the Excise Department not below such rank as the Local Government may prescribe or a police officer not below the rank of an officer in charge of a police station has reason to believe that an offence punishable under section 60, section 61, section 62, section 63 or section 65] has been, is being or is likely to be committed in any place, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, by day or night, enter and search such place:

Provided that <sup>2</sup>[any officer] other than a Collector taking action under this sub-section shall before entering such place record the grounds of his belief as aforesaid.

Further  
powers of  
seizure,  
detention,  
search and  
arrest.

(2) <sup>3</sup>[The Collector or other officer] as aforesaid may seize anything found in such place which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Procedure  
relating to  
arrests,  
searches, etc.

54. The provisions of the Code of Criminal Procedure, 1898,<sup>4</sup> relating to arrests, searches, search-warrants, production of persons arrested and investigation into offences shall be held to be applicable, so far as may be, to all action taken in these respects under this Act:

Provided that an offence punishable under section 60, <sup>5</sup>[section 60A] section 61, section 62 or section 65 may be investigated into without the order of a Magistrate, and that any warrant issued by the Collector under section 51 or section 52 may be executed by any officer selected by the Collector for that purpose.

Offences  
to be bailable.

55. All offences punishable under this Act shall be bailable within the meaning of the Code of Criminal Procedure, 1898,<sup>4</sup> and the provisions of that Code in respect of bail shall be applicable thereto.

Duty of  
officers of  
certain  
Departments  
to report  
offences  
and to assist  
officers of  
the Excise  
Department

56. Every officer of the Police, Salt, Opium and Land Revenue Departments shall be bound to give immediate information to an

<sup>1</sup> These words and figures were substituted for the words and figures "Whenever a Collector, or any other excise officer not below such rank as the Local Government may prescribe, has reason to believe that an offence punishable under section 60, section 61, section 62 or section 65" by s. 4 of the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *infra*.

<sup>2</sup> These words were substituted for the words "an excise officer" by s. 4 (1) of *ibid*.

<sup>3</sup> These words were substituted for the words "every collector or other excise officer" by s. 4 (2) of *ibid*.

<sup>4</sup> Genl. Acts, Vol. V.

<sup>5</sup> The words and figures "section 60A" were inserted by s. 3 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.

<sup>1</sup>[officer of the Excise Department] of all breaches of any of the provisions of this Act which may come to his knowledge, and to aid any <sup>1</sup>[officer of the Excise Department] in carrying out the provisions of this Act upon request made by such officer.

57. (a) Every owner or occupier of land and the agent of any such owner or occupier of land on which—  
 (b) Every lambardar, village headman, village accountant or village policeman in whose village—

Duty of land holders and others to give information.

there shall be any manufacture of any excisable article not licensed under this Act, or any unlawful cultivation or collection of any plants from which an intoxicating drug can be produced, shall be bound to give notice of the same to a magistrate or to an officer of the excise, police or land revenue department immediately the same shall have come to his knowledge.

58. Every officer in charge of a police station shall take charge of and keep in safe custody, pending the orders of a magistrate or of the Collector, all articles seized under this Act which may be delivered to him; and shall allow any <sup>1</sup>[officer of the Excise Department] who may accompany such articles to the police station, or may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Duty of officer in charge of police station to take charge of articles seized.

59. The District Magistrate by notice in writing to the licensee may require that any shop in which any excisable article is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

Power to close shops for the sake of public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a magistrate of any class or any police officer above the rank of constable who is present, may require such shop to be kept closed for such period as he may think necessary:

Provided that where any such riot or unlawful assembly occurs the licensee shall, in the absence of such magistrate or police officer, close his shop without any order.

## CHAPTER X.

### OFFICES AND PENALTIES.

60. Whoever, in contravention of this Act or of any rule or order made under this Act, or of any licence, permit or pass obtained under this Act—

- (a) imports, exports, transports or possesses any excisable article;  
 (b) manufactures any excisable article; or  
 (c) cultivates any hemp plant (*cannabis sativa*); or

Penalty for unlawful import, export, transport, manufacture, possession, sale, etc.

<sup>1</sup> These words were substituted for the words "excise officer" by the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *infra*.

- (d) collects or sells any portion of the hemp plant (*cannabis sativa*) from which any intoxicating drug can be manufactured; or
- (e) constructs or works any distillery or brewery; or
- (f) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than tari; or
- (g) removes any excisable article from any distillery, brewery or warehouse licensed, established or continued under this Act; or
- (h) bottles any liquor for purposes of sale; or
- (i) sells any excisable article, save in the case provided for by section 61; or
- (j) taps or draws tari from any tari-producing tree in areas notified under section 42;

<sup>1</sup>[shall be punished, if the offence is committed in respect of cocaine, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and in any other case with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.]

Penalty for use of place for commission of an offence respecting cocaine.

<sup>2</sup>[60A. Any owner, occupier, or person having the use of any place who uses such place for the commission or for abetting the commission of an offence under this Act in respect of cocaine, or knowing or having reason to believe that such place is being used for the aforesaid purpose permits it to be used, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Security for abstaining from cocaine offences.

60B. (1) Whenever any person is convicted of any offence under this Act in respect of cocaine before a High Court, a court of session, or the court of a district magistrate, a sub-divisional magistrate, or a magistrate of the first class, and such court is of opinion that it is necessary to require such person to execute a bond for abstaining from offences under this Act in respect of cocaine, such court may, at the time of passing sentence on such person, order him to execute a bond for a sum which having regard to his means shall not be excessive, with or without sureties, for abstaining from such offences during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an appellate court when disposing of an appeal or by the High Court when exercising its powers of revision.

<sup>1</sup> These words were substituted by s. 5 of the United Provinces Excise (Amendment) Act, 1914 (U. P. Act 3 of 1914), *infra*.

<sup>2</sup> Sections 60A and 60B were inserted by s. 4 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.

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(4) The proceedings subsequent to the making of any order under this section shall be regulated as nearly as may be by the provisions of sections 120, 122, 123, 124, 125, and 126 of the Code of Criminal Procedure, 1898<sup>1</sup>, as if such order had been made under section 106 of the said Code, and the provisions of sections 513, 514, and 515 of the said Code shall apply where a bond is executed or required to be executed under this section.]

61. If any licensed vendor, or any person in his employ and acting on his behalf—

- (a) in contravention of section 22 sells or delivers any spirit or intoxicating drug to any person apparently under the age of sixteen years; or
- (b) in contravention of section 23 employs or permits to be employed on any part of his licensed premises referred to in that section, any child or woman;

Penalty for unlawfully selling to persons under sixteen, or employing children or women.

he shall be punished with a fine which may extend to five hundred rupees.

<sup>2</sup>[62. Whoever renders or attempts to render fit for human consumption any spirit (whether manufactured in British India or not) which has been denatured, or has in his possession any denatured spirit which has been rendered fit for human consumption or in respect of which any attempt has been made to render it so fit shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.]

Penalty for attempting to render denatured spirit fit for human consumption.

63. Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlawfully imported, transported or manufactured or knowing the prescribed duty not to have been paid thereon, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for possession of excisable article unlawfully imported, etc.

64. Whoever, being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf,—

Penalty for certain Acts by licensee or his servant.

- (a) fails to produce such licence, permit or pass on the demand of any excise officer or of any other officer duly empowered to make such demand; or
- (b) in any case not provided for in section 60 wilfully contravenes any rule made under section 40; or
- (c) wilfully does or omits to do anything in breach of any of the conditions of the licence, permit or pass not otherwise provided for in this Act;

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> This section was substituted for the original s. 62 by s. 7 of the United Provinces Excise (Amendment) Act, 1915 (U. P. Act 1 of 1915), *infra*.

shall be punished for each such offence with fine which may extend to two hundred rupees.

Penalty for  
consumption  
in chemist's  
shop, etc.

65. (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any excisable article which has not been *bond fide* medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person not employed as aforesaid consumes any such excisable article on such premises, he shall be punished with fine which may extend to two hundred rupees.

Penalty for  
excise officer  
refusing to do  
duty.

66. Any excise officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for  
excise officer  
making vexa-  
tious search,  
etc.

67. If any excise officer—

- (a) without reasonable grounds of suspicion enters, inspects or searches, or causes to be entered, inspected or searched, any place;
- (b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person;

he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for  
offences not  
otherwise  
provided for.

68. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall be punished for each such act or omission with fine which may extend to two hundred rupees.

Enhanced  
punishment  
after previous  
conviction.

69. If any person, after having been previously convicted of an offence punishable under section 60, <sup>1</sup>[section 60A,] section 62, section 63 or section 65 or under the similar provisions in any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

<sup>1</sup> The word and figures "section 60A" were inserted by s. 3 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.



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Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898,<sup>1</sup> from being so tried.

**70.** (1) No Magistrate shall take cognizance of an offence punishable — Cognizance of offences.

(a) under section 60, <sup>2</sup>[section 60A,] section 63 or section 65, except on his own knowledge or suspicion or on the complaint or report of an excise officer, or

(b) under section 62, section 64, section 66, section 67 or section 68, except on the complaint or report of the Collector or an excise officer authorized by him in that behalf.

(2) Except with the special sanction of the Local Government, no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed.

**71.** In every prosecution under section 60 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of— Presumption as to commission of offence in certain cases.

(a) any excisable article,

(b) any still, utensil, implement or apparatus whatsoever for the manufacture of any excisable article other than tari, or

(c) any materials which have undergone any process towards the manufacture of an excisable article or from which an excisable article has been manufactured,

for the possession of which he is unable to account satisfactorily:

and the holder of a licence, permit or pass under this Act shall be liable to punishment, as well as the actual offender, for any offence punishable under section 60, section 62, section 63, or section 64 committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

**72.** (1) Whenever an offence punishable under this Act has been committed—

(a) every excisable article in respect of which such offence has been committed,

(b) every still, utensil, implement or apparatus and all materials by means of which such offence has been committed,

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> The word and figures "section 60A" were inserted by s. 3 of the United Provinces Excise (Amendment) Act, 1919 (U. P. Act 4 of 1919), *infra*, Vol. III.

- (c) every excisable article lawfully imported, transported, manufactured, had in possession or sold along with or in addition to any excisable article liable to confiscation under clause (a),
- (d) every receptacle, package and covering in which any excisable article as aforesaid or any materials, still, utensil, implement or apparatus is or are found, together with the other contents (if any) of such receptacle or package, and
- (e) every animal, cart, vessel or other conveyance used in carrying such receptacle or package,

shall be liable to confiscation.

When confiscation may be ordered.

(2) When in the trial of any offence punishable under this Act, the magistrate decides that any thing is liable to confiscation under sub-section (1) he may order confiscation:

Provided that in lieu of ordering confiscation he may give the owner of the thing liable to be confiscated an option to pay such fine as he thinks fit.

Further provision for confiscation.

**73.** When any thing mentioned in clauses (a) and (b) of section 72, sub-section (1), is found in circumstances which afford reason for believing that an offence punishable under this Act has been committed in respect or by means thereof, or when such an offence has been committed and the offender is not known or cannot be found, the Collector may order confiscation of such thing and of any other thing or animal found or used therewith which is liable to confiscation as provided by section 72, sub-section (1):

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing or animal in question or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he produces in support of his claim:

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale of the thing or animal in question would be for the benefit of its owner, the Collector may at any time direct it to be sold; and the provisions of this section shall, so far as may be, apply to the net proceeds of such sale.

Power of excise officers to compound offences.

**74.** Any excise officer specially empowered by the Local Government in that behalf may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under clause (a) or clause (b) of sub-section (1) of section 34, or who is reasonably suspected of having committed an offence punishable under section 64 or section 68, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension, or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which

any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released and no further proceedings shall be taken against such person or property.

## CHAPTER XI.

### MISCELLANEOUS.

75. Nothing in the foregoing provisions of this Act applies to the import, manufacture, possession, sale or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries, except in so far as the Local Government may by notification so direct. Exception of medicated articles.

76. The Local Government may, by notification and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons, or any excisable article, wholly or partly, from the operation of all or any of the provisions of this Act or of all or any of the rules made under this Act, either throughout the United Provinces or in any specified area comprised therein or for any specified period or occasion. Power of Local Government to exempt persons and excisable articles from the provisions of this Act.

77. All rules made and notifications issued under the Act shall be published in the Gazette, and shall have effect as if enacted in this Act from the date of such publication or from such other date as may be specified in that behalf. Publication of rules and notifications.

78. (1) No suit shall lie in any civil court against the Secretary of State for India in Council or any officer or person for damages for any act in good faith done, or ordered to be done, in pursuance of this Act or of any other law for the time being in force relating to the excise revenue. Bar of certain suits.

(2) No civil court shall try any suit which may lawfully be brought against the Secretary of State for India in Council in respect of anything done, or alleged to have been done, in pursuance of this Act, unless the suit is instituted within six months after the date of the act complained of. Limitation of suits.

79. Any power conferred by this Act on the Chief Revenue Authority may be exercised from time to time as occasion requires. Powers of Chief Revenue Authority exercisable from time to time.

## SCHEDULE.

(See section 2.)

## ENACTMENTS REPEALED.

Year.	Number.	Short title.	Extent of repeal.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.			
1863	XVI	The Excise (Spirits) Act, 1863.	The whole so far as it affects the United Provinces.
1894	VIII	The Indian Tariff Act, 1894.	Section 6 so far as it affects the United Provinces.
1896	XII	The Excise Act, 1896 .	The whole so far as it affects the United Provinces.
1906	VII	The Excise (Amendment) Act, 1906.	The whole so far as it affects the United Provinces.

UNITED PROVINCES ACT I OF 1911.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[24th January, 1911; 11th February, 1911.]

An Act to regulate the administration of the pargana of Kaswar Raja.

WHEREAS the pargana of Kaswar Raja forms part of the Family Domains of the Raja of Benares; and whereas by agreement between the Raja of Benares and the British Government the Raja will from the date specified in the agreement have in the said pargana the status and responsibilities of a landholder under the ordinary law, and the special privileges which he has hitherto enjoyed under Bengal Regulations No. <sup>2</sup>XV of 1795 and No. <sup>2</sup>VII of 1828 will cease; and whereas this change in his status involves the substitution for the administration by

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1910, Pt. VII, p. 390; and for Proceedings in Council, see *ibid*, 1910, Pt. VII, p. 368. and *ibid*. 1911, Pt. VII, p. 18.

<sup>2</sup> *Supra*, Vol. I.

his officers of administration by officers of the British Government; and whereas it is desirable that until any law is enacted stating the laws which shall be in force in that pargana and the rights and responsibilities appertaining to, and the powers exercised, and the customs followed by, the inhabitants of that pargana or any of them, existing rights, responsibilities, powers and customs should continue unchanged; and to obtain as soon as possible an accurate record of the said rights, responsibilities, powers and customs; and to prevent the immediate enforcement in the said pargana of certain provisions of law applicable to other parts of the United Provinces of Agra and Oudh and not already applicable to the said pargana; It is hereby enacted as follows:—

1. This Act may be called the Pargana of Kaswar Raja Act, 1911.

Short title  
and extent.

It extends to the pargana of Kaswar Raja in the district of Benares.

It shall come into force on such day<sup>1</sup> as the Local Government may, by notification in the Gazette, appoint in this behalf.

2. In this Act the terms “Native Commissioner,” “Superintendent” and “Deputy Superintendent” mean the officers holding those titles appointed under Bengal Regulation No. VII of 1828.<sup>2</sup>

Definitions.

3. The transfer of administration of pargana Kaswar Raja from the Raja of Benares to the British Government shall not affect any proprietary right or interest hitherto held by the Raja, or any right or interest of any person other than the Raja in land in that pargana; and all responsibilities falling upon and all powers exercisable by any such person other than the Raja before such transfer, and all customs as to sale or other transfer of such right or interest prevailing at the date of such transfer, shall continue in force.

Reservation  
of existing  
rights or  
interests in  
land.

4. The right which has hitherto been exercised by the Raja of Benares to collect, by revenue processes, sums due to him from persons having rights or interests in land or occupying land in the said pargana shall cease from the date of the said transfer. If any sum so due cannot be recovered by the Raja, he shall have the right to sue for its recovery in the court of an assistant collector of the Benares district.

Cessation of  
right of Raja  
of Benares to  
collect by  
revenue pro-  
cesses, sums  
due to him.

5. The practice at present followed by the Raja of ejecting certain tenants by notice or revenue process shall cease. The Raja may proceed by suit for ejectment.

Procedure in  
ejectment  
cases.

6. Any suit or proceeding cognizable by a revenue court under the rent or revenue law applicable to Agra which would before the commencement of this Act have been brought in the court of (i) the Raja, the Native Commissioner or any other of the Raja's officers, (ii) the Deputy Superintendent, or (iii) the Superintendent or the Board of Revenue shall thereafter be brought in the court of (i) the assistant col-

Trial of reve-  
nue suit.

<sup>1</sup> The 1st April, 1911, see U. P. Gazette, 1911, Pt. I, p. 470.

<sup>2</sup> *Supra*, Vol. I

lector having jurisdiction, (ii) the Collector or (iii) the Commissioner respectively.

Procedure in suits referred to in sections 4, 5 and 6.

7. Suits and proceedings under section 4, section 5 or section 6 shall be heard and determined in the manner prescribed for the hearing and determination of similar suits or proceedings in Agra, and the provisions of the law in force in Agra relating to appeals and revision in such similar suits and proceedings shall apply.

Trial of Suits or appeals of a civil nature relating to land.

8. All other suits, appeals and proceedings of a civil nature relating to land shall from the said date be filed in the civil courts of the Benares district.

Transfer of suits and appeals pending at the commencement of the Act.

9. (1) All revenue suits, appeals and proceedings pending at the date of the commencement of this Act shall be transferred to the revenue courts competent to try them under section 6 of this Act, and appeals and applications for revision in such cases disposed of before the said date shall lie to the court to which such appeal or application would, if pending, be transferred under this section.

(2) Other suits and proceedings of a civil nature relating to land pending in the court of the Native Commissioner on the said date shall be transferred for disposal to the civil court in the Benares district competent to try the same.

Appeals from decrees or orders passed in suits or proceedings of the said nature pending in the court of the Deputy Superintendent shall be transferred to the court of the District Judge of Benares where the value of the original suit in which, or in any proceeding arising out of which, the decree or order was made, did not exceed five thousand rupees, and to the High Court in any other case.

Appeals and applications for revision in suits or proceedings of the said nature pending before the Board of Revenue on the said date shall be transferred to the High Court.

Appeals and applications for revision in suits or proceedings of the said nature disposed of by the Native Commissioner or the Deputy Superintendent before the said date shall lie to the court to which such appeal or application would, if pending, be transferred under this sub-section.

Appointment of a record officer.

10. (1) As soon as possible after the transfer of administration, the Government shall appoint a record officer for the said pargana, who shall have all the powers of a record officer under the United Provinces Land Revenue Act, 1901. Such officer in recording the nature and class of the tenure or occupancy of any person having a right or interest in or occupying land shall not be limited by the classes of tenure described in the Agra Tenancy Act, 1901, but shall record the rights and interests and occupancies which he finds actually to prevail. He shall prepare registers and other records in the manner and following generally the forms prescribed in the rules and orders issued under the United Pro-

U. P. Act III of 1901. vices Land Revenue Act, 1901<sup>1</sup>, with such changes as the Board may direct or approve. In addition to such records and registers he shall prepare a clear report describing definitely the exact nature of each class of right, interest, tenure or occupancy which he finds to exist in the pargana.

(2) Until such records have been prepared by the record officer, the existing settlement records shall be presumed to be correct until the contrary is proved.

11. The right of the Raja of Benares to houses, trees and holdings of subordinate tenure holders and tenants dying intestate and without heirs shall continue, and his right to the other immoveable property of subordinate tenure holders in the said pargana who may die intestate and without heirs shall also continue. Right of Raja of Benares to property of tenants dying intestate and without heirs.

12. The provisions of the United Provinces Land Revenue Act, 1901, relating to patwaris and kanungos shall, so far as they are applicable, apply to the said pargana. Patwaris and kanungos.

13. The rate which is levied or may be levied under section 4 of the Benares Family Domains Act, 1904, in the said pargana, shall continue to be levied or leviable. Local rate.

All rates realized by the Raja shall be paid to the Collector of Benares, shall be credited to the district fund of the Benares district established under the United Provinces District Boards Act, 1906, and shall be used by that board in accordance with the terms of the said Act.

14. All property hitherto vested in the Family Domains local rates fund within the limits of the said pargana shall vest in the Benares District board. Vesting of certain property in the Benares district board.

## UNITED PROVINCES ACT No. I of 1912.<sup>2</sup>

[APPLIES TO THE UNITED PROVINCES.]

[8th December, 1911; 14th January, 1912.]

### An Act to amend the Law of Arbitration in the United Provinces.

WHEREAS it is expedient to amend the law of Arbitration in the United Provinces; Preamble.

It is hereby enacted as follows:—

1. (i) This Act may be called the United Provinces Arbitration (Amendment) Act, 1912. Title and extent.

(ii) It extends to the whole of the United Provinces.

<sup>1</sup> *Supra.*

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1911, Pt. VII, p. 308; and for Proceedings in Council, see *ibid.*, 1911, Pt. VII, p. 284.

*Arbitration.*      [1912: U. P. Act I.  
*Oudh Civil Courts.*   [1912: U. P. Act II.  
*Oudh Laws.*        [1912: U. P. Act III.

Definition of  
 "submis-  
 sion."

2. For the purposes of the Indian Arbitration Act, 1899,<sup>1</sup> and not-IX of 1899. withstanding anything to the contrary in the definition of the word "submission" as given in section 1 (b) of that Act, "submission" shall mean a written agreement to submit present or future differences to arbitration under the Indian Arbitration Act, 1899,<sup>1</sup> whether an arbitrator is named therein or not.

UNITED PROVINCES ACT No. II of 1912.<sup>2</sup>

[APPLIES TO THE PROVINCE OF OUDH.]

[8th December, 1911; 15th January, 1912.]

An Act to amend the Oudh Civil Courts Act, 1879.<sup>3</sup>

WHEREAS it is expedient to extend the pecuniary limits within which a Munsif in Oudh may be invested with the jurisdiction of a Judge of a Court of Small Causes;

It is hereby enacted as follows:—

Title and  
 extent.

1. (1) This Act may be called the Oudh Civil Courts (Amendment) Act, 1912.

(2) It extends to the whole of the Province of Oudh.

Amendment  
 of section  
 24, Act XIII  
 of 1879.

2. In section 24 of the "Oudh Civil Courts Act, 1879, as amended XIII of 1879. by section 41 of the North-Western Provinces and Oudh Act, 1890,"<sup>3</sup> for XX of 1890. the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

UNITED PROVINCES ACT No. III of 1912.<sup>4</sup>

[APPLIES TO THE PROVINCE OF OUDH.]

[9th March, 1912; 29th April, 1912.]

An Act to amend the Oudh Laws Act, 1876.<sup>5</sup>

WHEREAS it is expedient further to amend the Oudh Laws Act, 1876;<sup>5</sup> XVIII of 1876.

It is hereby enacted as follows:—

Short title

1. This Act may be called the Oudh Laws (Amendment) Act, 1912.

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1911, Pt. VII, p. 309; and for Proceedings in Council, see *ibid*, 1911, Pt. VII, p. 284.

<sup>3</sup> *Supra*, Vol. I.

<sup>4</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1912, Pt. VII, p. 2; for Report of Select Committee, see *ibid*, 1912, Pt. VII, p. 37; and for Proceedings in Council, see *ibid*, 1911, Pt. VII, p. 286, and *ibid*, 1912, Pt. VII, pp. 54 and 93.



XVIII of  
1876.

2. For section 20 of the <sup>1</sup>Oudh Laws Act, 1876, the following section shall be substituted:

Amendment  
of section 20,  
Act XVIII of  
1876.

[Vol. I of this Code, p. 171.]

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## THE UNITED PROVINCES COURT OF WARDS ACT, 1912.

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UNITED PROVINCES ACT No. IV OF 1912.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[9th March, 1912; 13th May, 1912.]

An Act to consolidate and amend the law relating to the court of wards in the United Provinces of Agra and Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to the court of wards in the United Provinces;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the United Provinces Court of Wards Act, 1912.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

Repeal.

2. (1) The North-Western Provinces and Oudh Court of Wards Act, 1899, is hereby repealed. U. P. Act III of 1899.

(2) But all rules and appointments made, notifications and orders issued, authorities and powers conferred, farms and leases granted, rights acquired, liabilities incurred, and other things done under the said enactment or any enactment thereby repealed shall, so far as may be, be deemed to have been made, issued, conferred, granted, acquired, incurred and done under this Act.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1911, Pt. VII, p. 260; for Report of Select Committee, see *ibid*, 1912, Pt. VII, p. 27, and for Proceedings in Council, see *ibid*, 1911, Pt. VII, pp. 221 and 284; *ibid*, 1912, Pt. VII, pp. 55 and 93.

(3) Any enactment or document referring to the said enactments shall, so far as may be, be construed to refer to this Act or the corresponding portion thereof.

3. In this Act, unless there be something repugnant in the subject or context—

- (1) "mahal" shall have the meaning which it has in the Land Revenue Act, in force for the time being, in the United Provinces;
- (2) "proprietor" means a person entitled as proprietor or under-proprietor to any beneficial interest in a mahal;
- (3) "ward" means a disqualified proprietor whose person or property or any part of whose property is under the superintendence of the court of wards, or a proprietor in regard to whose property a declaration has been made under section 10;
- (4) "minor" means a person who, under section 3 of the Indian Majority Act, 1875,<sup>1</sup> has not attained his majority.

IX of 1875.

## CHAPTER II.

### THE COURT OF WARDS.

4. The Board of Revenue shall be the court of wards for the United Provinces.

5. The authority vested in the court of wards shall be subject to the control of the Local Government.

6. (1) Subject to the control of the Local Government the Board of Revenue may distribute the business of the court of wards territorially or otherwise amongst the members, or may allot the entire business of the court of wards to one member.

(2) All orders made by a member of the Board of Revenue in accordance with such distribution or allotment shall be held to be the orders of the court of wards.

7. The court of wards may exercise all or any powers conferred on it by this Act through the Commissioners of the divisions or the Collectors of the districts in which any part of the property of its wards may be situated, or through any other person whom it may appoint for such purpose.

The court of wards may, with the sanction of the Local Government, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

Board of Revenue to be the court of wards.  
Control of the Local Government.  
Distribution of business.

Powers of the court of wards how exercised.

<sup>1</sup> Genl. Acts, Vol. II.

## CHAPTER III.

## ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY.

Proprietors  
when to be  
deemed dis-  
qualified.

8. (1) Proprietors shall be deemed to be disqualified to manage their own property when they are—

- (a) minors;
- (b) females declared by the Local Government to be incapable of managing their own property;
- (c) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their own property;
- (d) persons declared by the Local Government to be incapable of managing or unfitted to manage their own property—
  - (i) owing to any physical or mental defect or infirmity unfitting them for the management of their own property;
  - (ii) owing to their having been convicted of a non-bailable offence and being unfitted by vicious habits or bad character for the management of their own property;
  - (iii) owing to their having entered upon a course of extravagance;
  - (iv) owing to their failure without sufficient reason to discharge the debts and liabilities due by them:

Provided that no such declaration shall be made under sub-clause (iii) or (iv) unless the Local Government is satisfied—

- (a) that the aggregate annual interest payable at the contractual rate on the debts and liabilities due by the proprietor exceeds one-third of the gross annual profits of the property, and
- (b) that such extravagance or such failure to discharge the said debts and liabilities is likely to lead to the dissipation of the property.

(2) No declaration under clause (d) of sub-section (1) shall be made until the proprietor has been furnished with a detailed statement of the grounds on which it is proposed to disqualify him and has had an opportunity of showing cause why such declaration should not be made.

Inquiry into  
circumstances  
of a proprie-  
tor by order  
of the Local  
Government.

9. (1) The Local Government may direct the Collector or such other person as it may appoint, to make an inquiry into the circumstances of any proprietor and the extent of his indebtedness.

V of 1908.

For the purpose of compelling the attendance of witnesses and the production of documents in the course of such inquiry the Collector or other person appointed to make the inquiry may exercise all or any of the powers of a Civil Court under the Code of Civil Procedure, 1908.<sup>1</sup>

(2) The Collector shall notify in the gazette the date on which the inquiry will be held. A copy of the notification shall be served on the proprietor. The Collector shall also publish the said notification in the manner prescribed by rule for the publication of notifications of assumption of charge by the court of wards.

(3) From the date of the publication of the said notification in the gazette the prohibitions contained in clause (a) of section 37 of this Act shall apply to the proprietor so long as the inquiry is proceeding, and until the orders of the Local Government are passed thereon.

10. A proprietor may apply to the Collector to have his property placed under the superintendence of the court of wards, and the court of wards may, on being satisfied that it is expedient to undertake the management of such property, make a declaration to this effect.

Application  
by proprietor  
himself.

11. No declaration made by the Local Government under section 8 or by the court of wards under section 10 shall be questioned in any Civil Court.

Jurisdiction  
of civil court  
barred.

12. (1) The court of wards shall assume the superintendence of the property of any proprietor disqualified under clause (b) or (d) of sub-section (1) of section 8 or in regard to whose property a declaration has been made under section 10.

Power to  
assume super-  
intendence.

(2) The court of wards may in its discretion assume or refrain from assuming the superintendence of—

(a) the property or person and property of any proprietor disqualified under clause (a) or (c) of sub-section (1) of section 8;

(b) the person of any proprietor disqualified under clause (b) or (d) of sub-section (1) of section 8.

(3) The court of wards may assume the superintendence of the person of any minor who has an immediate or reversionary interest in the property—

(a) of any proprietor disqualified under section 8; or

(b) of any proprietor in regard to whose property a declaration has been made under section 10.

13. If the right of the court of wards to assume or retain the superintendence of the person or property of any disqualified proprietor is disputed by such proprietor or, if he be a minor or of unsound

Report to  
Government  
when court  
of wards  
right of supe-

<sup>1</sup> Genl. Acts, Vol. VI.

intendence is  
disputed.

mind, by some person on his behalf, the case shall be reported to the Local Government, whose orders thereon shall be final and shall not be questioned in any Civil Court.

Protection of  
person and  
property of  
successor  
on death  
of proprietor.

**14.** (1) Whenever any Collector receives information that any proprietor has died, and he has reason to believe that the successor, whether by survivorship, inheritance or devise, of such proprietor should be deemed to be disqualified under clause (a) or (b) or (c) or (d) (i) or (d) (ii) of sub-section (1) of section 8—

- (a) he may, subject to the direction and control of the court of wards, take possession of the property of the successor and appoint a manager thereof, who shall exercise all the powers conferred by this Act on a manager appointed by the court of wards, or may take such steps and make such order for the temporary custody and protection of the property of the successor as he thinks proper; and
- (b) if the successor be a minor, he may direct that the person, if any, having the custody of the minor, shall produce him, or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper.

If the minor is a female who ought not to be compelled to appear in public, the direction under clause (b) of this sub-section for her production shall require her to be produced in accordance with the manners and the custom of the country.

(2) If the property is not afterwards taken under charge by the court of wards, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of land revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, by any process by which arrears of land revenue may, for the time being, be recovered.

(3) Any action taken by a Collector under sub-section (1) shall at once be reported by him to the court of wards.

Notification  
of assumption  
of superintendence.

**15.** When the court of wards assumes the superintendence of any person or property, the order of assumption shall be notified in the gazette, and shall specify the Collector or other person who is put in charge.

Whole property of ward  
to be deemed  
to be under  
superintendence.

**16.** (1) The whole of the moveable and immoveable property of a ward shall be deemed to be under the superintendence of the court of wards—

- (a) from the date of assumption of superintendence, in the case of proprietors disqualified under clause (a) or clause (c) of sub-section (1) of section 8; and



(b) from the date of the declaration made under clause (b) or clause (d) of sub-section (7) of section 8 or under section 10, as the case may be.

(2) The Collector or other person appointed in that behalf shall take possession and custody of the property and manage it in accordance with rules made under section 64.

(3) Any property which the ward may inherit subsequent to the date of such assumption or declaration shall be deemed to be under the superintendence of the court of wards.

(4) The court of wards may in its discretion assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of such assumption or declaration.

## CHAPTER IV.

### ASCERTAINMENT OF DEBTS.

17. (1) On the publication of a notification under section 15 the Collector specified in the order of assumption, or any other Collector whom the court of wards may appoint in this behalf, shall publish in the gazette a notice in English and in the vernacular calling upon all persons having claims, including decrees, for money, whether secured by mortgage or not, against the ward or his property to notify the same in writing to such Collector within six months from the date of publication of the notice:

Notice to claimants and presentation of claims.

Provided that if the claimant be at the date of notice a minor or insane or an idiot the said period of six months shall begin to run in accordance with the rules contained in section 6 of the Indian Limitation Act, 1908:<sup>1</sup>

XI of 1908.

Provided further that if the claimant be at the date of the said notice absent from British India, the said period shall begin to run from the date of his return to British India.

(2) The notice shall also be published at such places and in such other manner as the court of wards may by general or special order direct.

(3) Every claimant shall together with his statement of claim present full particulars thereof:

Provided that in the case of a decree it shall be sufficient to file a certified copy of the same together with particulars showing the extent to which the decree has been satisfied.

<sup>1</sup> Genl. Acts, Vol. VI.

(4) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Collector with the statement of claim:

Provided that the provisions of section 4 of the Bankers' Books Evidence Act, 1891,<sup>1</sup> shall apply to proceedings under this Chapter.

XVIII of  
1891.

(5) Every such document shall be accompanied by a true copy of the same. The Collector shall mark the original document for the purpose of identification, and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

(6) Nothing in this and the following sections of this chapter shall apply to any claim in respect of a transaction subsequent to the date of notification under section 15.

Effect of  
failure to  
notify claims.

18. Subject to the provisions of section 20 every claim of the nature specified in section 17 against the ward or his property, other than debts due to and liabilities incurred in favour of the Government, which is not notified under section 17, shall be deemed for all purposes and on all occasions, whether during continuance of the superintendence of the court of wards or afterwards, to have been duly discharged:

Provided that if the claimant can show sufficient cause for failure to comply with the provisions of section 17, the Collector shall receive his claim, and the claim so received shall be deemed to have been notified under section 17:

Provided also that the provisions of this section shall not be deemed to extinguish any such claim in any case in which the court of wards after assuming the superintendence of such property releases the same from its superintendence without discharging the liabilities thereof in the manner provided in this Chapter:

Provided, further, that nothing in this section shall apply to a mortgagee in possession of immoveable property of the ward.

Powers of  
Collector in  
regard to  
claims.

19. (1) The Collector shall decide which of the claims notified or deemed to have been notified under sections 17 and 18 are to be allowed and which are to be disallowed, in whole or in part, and, on his decision being confirmed by the court of wards, shall give written notice of the same to the claimants.

(2) When a claim which has been received under the first proviso of section 18 is allowed, the Collector may disallow payment in part of the interest which has accrued since the publication of the notice under section 17.

(3) Where a claim allowed under sub-section (1), not being a claim merged in a decree, is due or payable the Collector may, if such claim cannot be at once discharged, fix the rate of interest to be paid thereon

from the date of his decision to the date of payment and discharge of such claim :

Provided that if such claim is not discharged by the court of wards within two years from the date of the decision of the Collector allowing it, any order made under this sub-section reducing the contractual rate of interest shall be deemed to be inoperative.

(1) The Collector may fix the rate of interest to be paid on the claim from the date of such decision to the fixed date aforesaid or to a date two years from the date of the decision, whichever may be the longer period :

Provided that if such claim is not discharged by the court of wards on or before the date up to which the interest has been fixed by such order, the order reducing the contractual rate of interest shall be deemed to be inoperative.

(5) In no case shall the rate of interest fixed under sub-section (3) or sub-section (4) be less than six per centum per annum.

(6) The action of the Collector under sub-sections (2), (3) and (4) of this section shall be subject to the confirmation of the court of wards and shall not be open to question in any Civil Court.

20. Nothing in sections 18 and 19 shall be construed to prevent any person from instituting or continuing in any competent Court any suit or proceeding in respect of any claim which has been disallowed in whole or in part by the Collector under section 18 or by the court of wards under section 19 (1) : Prosecution of claims in civil court.

Provided that where the claimant has failed to notify his claim under section 17 no suit or proceeding in respect of such claim shall be maintainable unless the claimant shows good and sufficient cause for such failure.

21. (1) On the publication of a notice under section 17 no fresh proceeding in execution of any decree against the ward or his property shall be instituted in, nor shall any attachment or other process in any such proceeding then pending be issued by any Court until the decree-holder files— Execution of decrees to be stayed till certificate filed.

(a) a certificate to the effect that the claim has been notified or is deemed to have been notified in accordance with section 17, or

(b) a copy of a final order or decree of the Civil Court allowing the claim in any suit or proceeding referred to in section 20.

(2) Any person holding a decree against the ward or his property shall be entitled to receive from the Collector free of cost a certificate to the effect specified in sub-section (1) (a), and such certificate shall be

conclusive proof as defined by section 4 of the Indian Evidence Act, I of 1872. 1872,<sup>1</sup> of the truth of facts required to be stated therein.

(3) In computing the period of limitation prescribed by the Indian Limitation Act, 1908,<sup>2</sup> or section 48 of the Code of Civil Procedure<sup>3</sup> for any application for the execution of a decree proceedings in which have been stayed or temporarily barred under sub-section (1) the time from the date of notice or of the decree, if it was passed subsequently to the publication of the notice, to the date when the Collector's decision under section 19 is confirmed by the court of wards, shall be excluded.

Documents not produced to be inadmissible in evidence in certain cases.

22. If any document in the possession or under the control of any person is not produced by him as required by section 17, such document shall not be admissible in evidence against the ward whether during the continuance of the superintendence or afterwards, in any suit brought by that person or any person claiming under him, to enforce the claim or liability founded upon or supported by it, unless good cause be shown to the satisfaction of the court for the non-production thereof before the Collector.

Stay of process of execution in a Civil Court against property of ward.

23. If a Civil Court has directed any process of execution to issue against any property of a ward, the court of wards may at any time within one year after it assumes charge of such property apply to the Civil Court to stay proceedings in the matter of such process; and the Civil Court may, on such terms regarding interest or compensation for delay as appear to it to be just and reasonable, stay such proceedings for such period as it may deem fit.

Power to invest persons with powers under this chapter.

24. The Local Government may invest any person with the powers of a Collector under this Chapter.

## CHAPTER V.

### GUARDIANSHIP AND MANAGEMENT.

Allowance for ward and his family.

25. The court of wards may from time to time determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependants.

Residence and education of wards.

26. If the superintendence of the person of any ward or minor member of a ward's family has been assumed, the court of wards may pass such order as it thinks fit in respect of his residence, and also in the case of a minor in respect of his education; provided that where the said minor is a female nothing herein contained shall authorize the court of wards to remove her from the custody of her parents, grand parents or husband.

27. (1) The court of wards may appoint guardians for the care of the persons of such wards as are minors or of unsound mind or suffering from any physical or mental defect or infirmity, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid unless and until it has been confirmed by the court of wards.

Appointment,  
removal and  
control of  
guardian.

(2) In appointing a guardian under this section the court of wards shall be guided by the provisions of section 17 of the Guardians and VIII of 1890. Wards Act, 1890.<sup>1</sup>

28. A guardian so appointed shall be charged with the custody of the ward and shall make suitable provision for his maintenance, health, and, if he be a minor, his education, and such other matters as the personal law to which the ward is subject requires, and shall—

Duties of  
guardians.

- (a) give such security as the court of wards thinks fit for the due performance of his duty;
- (b) submit such accounts as the court of wards may direct;
- (c) pay the balances due from him thereon;
- (d) apply for the sanction of the court of wards to any act which may involve expense not previously sanctioned by the court of wards;
- (e) receive such allowance, to be paid out of the property of the ward, as the court of wards thinks fit;
- (f) continue liable to account to the court of wards after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship.

29. The court of wards may appoint managers for any property under its superintendence and may control and remove such managers.

Appointment,  
control and  
removal of  
managers.

Such managers shall receive such pay and allowances to be paid out of the property as the court of wards thinks fit.

30. A manager appointed by the court of wards shall have power to collect the rents of the lands placed under his charge as well as all other money due to the ward whose property he manages, and to grant receipts therefor;

Powers of  
managers.

and he may grant agricultural leases for a term not exceeding seven years, and do all such lawful acts as he may be generally or specially authorized by the court of wards to do for the good management of the property.

31. Every manager appointed by the court of wards shall manage the property placed under his charge diligently and faithfully, and he shall—

Duties of  
managers.

- (a) give such security, if any, as the court of wards thinks fit, duly to account for what he may receive in respect of the rents and profits of the property under his charge;

<sup>1</sup> Genl. Acts, Vol. IV.

- (b) keep accounts in such form and submit them at such times as the court of wards may direct;
- (c) deal with all moneys received by him in such manner as the court of wards may direct;
- (d) apply for the sanction of the court of wards to any act which may involve the property in expense not previously sanctioned by the court of wards;
- (e) be responsible for any loss occasioned to the property of the ward by his negligence or wilful default;
- (f) continue liable to account to the court of wards, after he has ceased to be manager, for his receipts and disbursements during the period of his managership.

Termination of appointment of guardians or manager.

32. The appointment of any guardian or manager appointed under section 27 or 29 shall terminate on the court of wards ceasing to exercise superintendence of the person or property for whom or which such guardian or manager has been appointed.

Guardians, etc., to be deemed to be public servants

33. Every guardian, manager or other servant of the court of wards shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code;<sup>1</sup> and in the definition of "legal remuneration" XLV of 1860 contained in section 161 of that Code the word "Government" shall, for the purposes of this section, be deemed to include the court of wards.

Managers and other servants to be deemed to be public accountants.

34. Every guardian, manager or other servant of the court of wards entrusted with the receipt, custody, or control of moneys or securities for money on behalf of the court of wards, or with the management of any property under its superintendence, shall be deemed to be a public accountant within the meaning of the Public Accountants' Default Act, XII of 1850. 1850.<sup>1</sup>

Collector when to discharge the duties of guardian or manager.

35. If no guardian of the person or manager of the property of a ward is appointed by the court of wards, the Collector specified in the order of assumption under section 15 or any other Collector whom the court of wards may appoint in this behalf, shall be competent to do, under the orders of the court of wards, anything that might be lawfully done by a guardian or a manager.

Application of moneys received by manager.

36. All moneys received by the manager shall be applied to the purposes hereinafter mentioned in accordance with such instructions as the court of wards may from time to time give in that behalf; priority shall be given to the purposes included under class I over those included in class II, and, unless the court of wards shall specially otherwise direct, priority shall be given to the purposes included in class II over those included in class III.

## CLASS I.

The payment of all charges necessary for the maintenance and education of the ward and his family, and for the management and supervision of the property of the ward;

the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property; and

the payments of all rents, cesses, and other demands due to any superior landlords in respect of any property held on behalf of the ward.

## CLASS II.

The liquidation of debts payable by the ward;

the payment of all expenses which may be necessary to protect the interests of the ward in the civil courts or otherwise;

the maintenance in an efficient condition of the estates, buildings, and other immoveable property, and the suitable upkeep of the furniture, equipage, live-stock, and other moveable property belonging to the ward; and

the payment of such charges for the religious observances of the ward and his family, and of such religious, charitable, and other allowances, and of such donations befitting the position of the ward's family as the court of wards may authorize to be paid.

## CLASS III.

The prevention and relief of distress among the ward's tenantry;

the improvement of the land and property of the ward, and the benefit of the ward and his property generally; and

the purchase of other landed or house property, and investments at interest on the security of—

promissory notes, debentures, stocks, and other securities of the Governor General in Council;

bonds, debentures, and annuities charged by the Imperial Parliament on the revenues of India;

stock or debentures of or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body or any port trust under the authority of any Act of a Legislature established in British India;

such other securities, stocks or shares guaranteed by the Governor General in Council or the Local Government as to the court of wards shall seem fit;

mortgages on immoveable property; or  
promissory notes for periods not exceeding one year executed on  
behalf of the proprietors of other estates under the super-  
intendence of the court of wards.

Disabilities  
of wards.

**37. A ward shall not be competent—**

(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the court of wards, or to enter into any contract which may involve him in pecuniary liability.

but nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage: provided that he shall not incur in connection therewith any pecuniary liability, except such as having regard to the personal law to which he is subject, and to his rank and circumstances, the court of wards may in writing declare to be reasonable;

(b) to adopt without the consent in writing of the court of wards;

(c) to dispose of his property by will without the consent in writing of the court of wards given either previously or subsequently to the making of the will but during the life-time of the testator:

Provided, first, that the court of wards shall not withhold its consent under clause (b) or clause (c) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property or to lower the influence or respectability of the family in public estimation;

Provided, secondly, that the provisions of clauses (b) and (c) shall not apply to any proprietor in regard to whose property a declaration has been made under section 10:

Provided, thirdly, that nothing contained herein shall disable a ward otherwise competent,—

(a) from settling the whole or a portion of his property under the Oudh Settled Estates Act, 1900;<sup>1</sup>

(b) from making a declaration with respect to his immoveable property under section 31A or section 32A (I) of the Oudh Estates Act, 1869.<sup>2</sup>

U. P. Act II  
of 1900.

I of 1869.

**38. (I)** The court of wards may mortgage or sell the whole or any part of any property under its superintendence, and may give leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remissions of rent or other dues, and may

Powers of  
court of  
wards as to  
property  
under its  
superinten-  
dence.

<sup>1</sup> See now the Oudh Settled Estates Act, 1917 (U. P. Act 5 of 1917), *infra*, Vol. III.

<sup>2</sup> *Supra*, Vol. I.



generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act in force for the time being as it may judge to be for the advantage of the ward or for the benefit of the property:

Provided that no property placed under the superintendence of the court of wards under section 10 shall be sold in whole or in part without the consent of the proprietor, except on the ground that the debts and liabilities with which the property is charged are such as to render their liquidation within a reasonable time impracticable, and that the release of the property under section 44 is inexpedient owing to contracts or engagements entered into or liabilities undertaken during the superintendence of the court of wards.

U. P. Act II  
of 1903.  
U. P. Act II  
of 1900.

Nothing in this sub-section shall affect the provisions of the Bundelkhand Alienation of Land Act, 1903,<sup>1</sup> and the Oudh Settled Estates Act, 1900.<sup>2</sup>

(2) A certificate granted to the purchaser by the court of wards to the effect—

(a) that the consent of the proprietor to the sale has been obtained;

or

(b) that the sale has been made in circumstances which under the proviso to sub-section (7) of this section render such consent unnecessary;

I of 1872.

shall be conclusive proof as defined by section 4 of the Indian Evidence Act, 1872,<sup>3</sup> of the truth of those facts.

U. P. Act II  
of 1901.  
XXII of 1886.  
U. P. Act II  
of 1906.

39. (7) Notwithstanding anything to the contrary contained in the Agra Tenancy Act, 1901,<sup>1</sup> the Oudh Rent Act, 1886,<sup>4</sup> or the United Provinces Local and Rural Police Rates Act, 1906,<sup>5</sup> arrears of rent, rates and cesses due by under-proprietors, farmers, or tenants in respect of property under the charge of the court of wards (whether such rents, rates, and cesses became due before or after the court of wards took charge) may, under the orders of the Collector of the district in which such property is situated, be recovered as arrears of land revenue by any process by which arrears of land revenue may for the time being be recovered.

Arrears of  
rent recover-  
able as arrears  
of land re-  
venue.

U. P. Act III  
of 1901.

(2) Nothing in this and the three next following sections shall be held to prevent the Collector from proceeding under section 185 of the United Provinces Land Revenue Act, 1901,<sup>1</sup> in any case to which that section applies.

40. (7) When a Collector decides to proceed under the last preceding section, he shall on being satisfied that the arrear is due and that

Grant of  
certificate of  
arrears due.

<sup>1</sup> *Supra.*

<sup>2</sup> See now the Oudh Settled Estates Act, 1917 (U. P. Act 5 of 1917), *infra*, Vol. III.

<sup>3</sup> Genl. Acts, Vol. II

<sup>4</sup> *Supra*, Vol. I.

<sup>5</sup> See now the United Provinces Local Rates Act, 1914 (U. P. Act 1 of 1914), *infra*.

payment thereof has been demanded, grant a certificate stating the amount due and the person by whom it is payable, and such certificate, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(2) The certificate shall be for the amount of all arrears and interest due and recoverable under the *Agra Tenancy Act, 1901*,<sup>1</sup> the *Oudh Rent Act, 1886*,<sup>2</sup> or the *United Provinces Local and Rural Police Rates Act, 1906*,<sup>3</sup> and there shall be payable in respect thereof a court fee of the same amount as is payable under the *Court Fees Act* in force for the time being in respect of a plaint for the same amount under section 172 of the *Agra Tenancy Act, 1901*,<sup>1</sup> or section 108A (2) of the *Oudh Rent Act, 1886*,<sup>2</sup> and the amount of such court fee may be included in the amount for which the certificate is given.

Procedure if  
defaulter  
denies liabi-  
lity.

**41.** (1) If the person named in the certificate deny his liability for the amount named therein or any part thereof, he may, within thirty days from receiving notice thereof, or, if no notice is given, within thirty days after any process for realizing the amount or enforcing the certificate has been executed, present a petition to the Collector stating the grounds of his denial.

(2) The Collector may—

- (i) reject such petition summarily; or
- (ii) after such inquiry as he thinks fit, amend or cancel the certificate or suspend its execution for such time as he may think fit; or
- (iii) remit the certificate and petition to any rent court having jurisdiction to be dealt with as a suit between the manager and the petitioner, and the certificate shall thereupon be treated as a plaint duly presented under the *Agra Tenancy Act, 1901*,<sup>1</sup> or the *Oudh Rent Act, 1886*.<sup>2</sup>

U. P. Act II  
of 1901.  
XXII of 1886.

When default-  
ter may bring  
a civil suit  
to contest  
liability.

**42.** (1) Any person who has presented a petition under the last section,—

- (a) if that petition has been rejected under clause (i) of sub-section (2) of that section, or
- (b) if the certificate has not been cancelled or amended to his satisfaction under clause (ii) or
- (c) if the petition and certificate have not been remitted to be dealt with under clause (iii),

may, if he denies his liability to pay the amount entered in the certificate or any part thereof and pays the same under protest made in writing at the time of payment, institute a civil suit for the recovery of the amount or the part thereof so paid.

<sup>1</sup> *Supra.*

<sup>2</sup> *Supra*, Vol. I.

<sup>3</sup> See now the *United Provinces Local Rates Act, 1914* (U. P. Act 1 of 1914), *infra*.

(2) In such suit the plaintiff may, notwithstanding anything in section 40, give evidence with respect to any matter stated in the certificate.

43. The court of wards may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its superintendence, and generally for all the purposes of this Act, and may order that such expenses be charged against the property of the ward generally or against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

Establishments and expenses.

## CHAPTER VI.

### RELEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE.

44. The court of wards may at any time release any person or property from its superintendence:

Power to release from superintendence.

Provided, first, that the court of wards shall not, without the previous sanction of the Local Government, so release any property, the proprietor of which has been disqualified under clause (b) or clause (d) of sub-section (1) of section 8:

Provided, secondly, that the court of wards shall not, without such sanction, so release any property when steps have been taken for the liquidation of the debts and liabilities with which the property is charged, and the liquidation thereof has not been completed:

Provided, thirdly, that the court of wards shall not, without such sanction, after the expiration of one year from the date of the notification under section 15, release any property on the ground that the debts and liabilities with which it is charged are such as to render their liquidation within a reasonable time impracticable: and

Provided, fourthly, that the court of wards shall not release the property of a person disqualified under clause (c) of sub-section (1) of section 8 until the expiration of three months after notice has been given to the civil court having jurisdiction.

45. (1) When a ward dies, or when a ward disqualified under clause (a) or clause (c) of sub-section (1) of section 8, ceases to be disqualified before the liquidation is completed of the debts and liabilities with which the property is charged, the court of wards may either release such property or may retain it under its superintendence until such debts and liabilities have been discharged.

Option to release or retain superintendence in certain cases.

(2) If the court of wards retains the superintendence, the person who has succeeded to the property or the person who has ceased to be

disqualified shall not be competent to transfer or create any charge on, or interest in, any part of such property while it remains under the superintendence of the court of wards, nor shall any debts or liabilities previously incurred by any person who has so succeeded be chargeable on such property until the debts and liabilities due by the court of wards have been discharged.

Retention of superintendence when there are more proprietors than one.

46. (1) If in the case of any property under the superintendence of the court of wards there are more proprietors than one, and if any one of such proprietors has ceased to be a ward, the court of wards, if it considers this course to be expedient in the interests of the proprietors who remain wards, may retain the whole property under its superintendence.

(2) If the court of wards under sub-section (1) of this section retains superintendence of the share of any proprietor who has ceased to be a ward, such proprietor shall not be competent to transfer or create any charge on or interest in any part of such share while it remains under the court of wards:

Provided that nothing in this section shall be deemed to prevent such proprietor from making a testamentary disposition:

Provided further that nothing in this section shall be deemed to prevent such proprietor from applying for partition of his share, and on the partition taking effect the court of wards shall release the share of the property allotted to such proprietor on partition:

Provided further that, from the date of such application and until such partition takes place, the court of wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

Appointment of guardian on release of minor.

47. (1) When the court of wards decides to release from its superintendence the person and property of any minor, it may before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the court of wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890.<sup>1</sup>

(4) Every such appointment shall be notified to the district judge within whose jurisdiction the property or any portion thereof is situated.

(5) Every such guardian shall be deemed to have been appointed by such district judge and to be subject to his jurisdiction as if so appointed and shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890.<sup>1</sup> VIII of 1890.

Disposal of estate after death of

48. When on the death of a ward the succession to his property or any part thereof is disputed, the court of wards may either direct that

<sup>1</sup> Genl. Acts, Vol. IV.

the property or any part thereof be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent Court, and in such latter case may institute a suit for interpleader against the several claimants.

49. (1) When the court of wards retains superintendence of any property under the provisions of section 45, section 46 or section 48, it may exercise all or any of the powers conferred by this Act in respect of such property and may do all such things requisite for the proper care and management of the property as the proprietor thereof if not disqualified might do for its care and management, and may pay such allowances to relatives and dependants of a deceased ward as may seem to it reasonable; all acts done by the court of wards in exercise of the powers conferred by this sub-section shall be binding on the person who succeeds to such property.

ward when succession doubtful.

Powers to be exercised in respect of property the superintendence of which is retained.

(2) All suits relating to the said property shall be brought or defended in the name of the Collector in charge of such property or of such other person as the court of wards may appoint in this behalf.

50. When the court of wards releases the property of any proprietor from its superintendence it shall deliver to the proprietor all documents of title and all papers and accounts (other than Government records) relating to such property.

Delivery of documents and accounts on release of property.

51. When the court of wards releases any person or property from its superintendence the fact of such release shall be notified in the gazette.

Notification of release from superintendence.

52. When the court of wards after assuming the superintendence of the property of a ward releases the same without discharging the liabilities thereof in the manner provided in Chapter IV, the time from the publication of notice under section 17 to the date of such release shall be excluded in computing the period of limitation applicable to suits or applications for the recovery of all claims outstanding against the ward at the date of such notice.

Effect of release without discharge of liabilities.

## CHAPTER VII.

### Suits.

53. (1) The exercise of any discretion conferred on the Local Government or the court of wards by this Act shall not be questioned in any Civil Court.

Exercise of discretion not to be questioned in Civil Court: certain officers protected from suits.

(2) No suit shall be brought against any officer of Government, or any guardian, manager, or servant appointed by and discharging his

duties under the court of wards, for anything done by him in good faith under this Act.

Notice of  
civil suit.

54. No suit relating to the person or property of any ward shall be instituted in any Civil Court until the expiration of two months after notice in writing has been delivered to or left at the office of the Collector or other person in charge of the property, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Suit in Civil  
Court to be  
in name of  
Collector or  
of such other  
person as the  
court of ward  
may appoint.  
Appointment  
of represen-  
tatives in  
Civil Court.

55. No ward shall sue or be sued nor shall any proceedings be taken in the Civil Court otherwise than by and in the name of the Collector in charge of his property or such other person as the court of wards may appoint in this behalf.

56. When in any suit or proceeding two or more wards being parties have conflicting interests, the court of wards shall appoint for each such ward a representative, and the said representative shall thereupon conduct or defend the case on behalf of the ward whom he represents, subject to the general control of the court of wards.

Statement of  
case for opi-  
nion by Civil  
Court.

57. (1) Where any question arises as between two or more wards of such nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the court of wards to appoint a representative on behalf of each ward. The representative so appointed shall prepare a statement containing the point or points for determination and shall on behalf of the said wards file the statement in a Civil Court having jurisdiction in the form of a case for the opinion of the said Court.

(2) The Civil Court shall then proceed to hear and dispose of the case in the manner prescribed by the Code of Civil Procedure, 1908,<sup>1</sup> for the hearing and disposal of suits.

(3) The case shall be conducted on behalf of the wards by their representatives appointed under sub-section (1) of this section subject to the general control of the court of wards.

Procedure for  
arbitration in  
cases between  
wards.

58. (1) When it appears to the court of wards that any question or dispute arising between two or more wards is a fit subject for reference to arbitration, it may appoint a representative on behalf of each such ward and require the said representatives to submit the question or dispute to the arbitration of such person or persons as it may approve.

(2) A reference to arbitration made in accordance with sub-section (1) shall take effect in the same manner, and have the same consequences, as a reference made by persons who are not wards of court.

Suits, etc., in  
revenue  
court.

59. (1) No ward shall sue or be sued nor shall any proceedings be taken in a revenue court except by or in the name of the manager

appointed by the court of wards, or the Collector in charge of the ward's property.

(2) Such manager may, subject to the control of such Collector, or, where there is no such manager, such Collector may institute, defend, compromise, or otherwise deal with suits, applications, or other proceedings in Revenue Courts relating to the property entrusted to him.

60. When a suit is brought in the Civil Court against the court of wards acting on behalf of a ward in respect of any property under the superintendence of the court of wards and the title of the ward to the said property is lost by reason of a decree in the said suit, all expenses incurred by the court of wards in the course of such litigation shall, so far as they are not payable by the opposite party, be recoverable in the first instance from any other property belonging to the said ward and in default thereof from the property on account of which the said litigation was undertaken.

*Saving of direct liability of court of wards for legal expenses.*

## CHAPTER VIII.

### MISCELLANEOUS.

61. (1) All deeds, contracts, or other instruments executed by the court of wards in the exercise of its powers under this Act may be executed in its own name or on behalf of the ward as the circumstances of the case may require.

*Deeds and other instruments.*

(2) Covenants entered into by the court of wards shall be binding on the court of wards only so long as the ward or property affected by such covenants remains under its superintendence, and only to the extent of such property; such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both shall have ceased to be under the superintendence of the court of wards.

(3) When the transferor and the transferee are both wards, the court of wards shall have power to enter into covenants on behalf of both the transferor and the transferee, respectively.

(4) This section shall apply to all deeds, contracts, and other instruments as aforesaid, whether executed before or after the commencement of this Act.

62. Any expense incurred by the court of wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land revenue due on such property.

*Recovery of expenses.*

Appointment  
of advisory  
committees.

**63.** (1) An advisory committee shall be appointed in such manner and in such districts as the Local Government may direct, to advise the court of wards on matters connected with—

- (i) the disqualification of proprietors under section 9,
- (ii) the making of a declaration under section 10,
- (iii) the allowance for the ward and his family under section 25,
- (iv) the residence and education of the ward under section 26,
- (v) the appointment, removal and control of guardians under section 27,
- (vi) the liquidation of debts payable by the ward under section 36,
- (vii) the mortgage and sale of property under section 38,
- (viii) the release of estates from superintendence under section 44, and
- (ix) such other matters connected with the management of the estates under the superintendence of the court of wards as the court of wards may think fit.

(2) In all matters mentioned in clauses (i) to (ix) of sub-section (1) of this section, in which the orders of the court of wards are required, the Collector shall, unless he sees special reason to the contrary, consult the advisory committee appointed for the district and submit its opinion to the court of wards.

(3) The functions of the committees shall be purely advisory, and no action of the court of wards shall be open to question on the ground that it was done without or contrary to the advice of such committees.

(4) The Local Government may from time to time frame rules for the constitution of the said advisory committees, for the qualification, appointment, and removal of the members thereof, for the term during which they are to serve, and generally to regulate the proceedings of such committees.

(5) No member of an advisory committee constituted under the rules made in accordance with sub-section (4) of this section shall be liable to be sued in any Civil Court, or be liable to a prosecution in any Criminal Court, in respect of any advice given, opinion expressed, or statement made by him in good faith in the discharge of his duty as such member.

Power to  
make rules.

**64.** The Board of Revenue after previous publication may make rules consistent with this Act,—

- (a) regulating the management of property under the superintendence of the court of wards; and
- (b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.



UNITED PROVINCES ACT No. V of 1912.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[10th August, 1912; 28th September, 1912.]

An Act to amend the United Provinces Village Sanitation Act, 1892.<sup>2</sup>U. P. Act II  
of 1892.

WHEREAS it is expedient to amend the <sup>2</sup>United Provinces Village Sanitation Act, 1892; It is hereby enacted as follows:—

1. (1) This Act may be called the United Provinces Village Sanitation (Amendment) Act, 1912; and

Short title  
and extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

U. P. Act II  
of 1892.

2. In section 2, clause (1) of the <sup>2</sup>United Provinces Village Sanitation Act (hereinafter referred to as "the said Act") the word "or" between the words "municipality" and "cantonnement" shall be omitted, and after the word "cantonnement" the words and figures "or notified area as defined in section 193 of the <sup>3</sup>United Provinces Municipalities Act, 1900" shall be added.

Amendment  
of section 2,  
U. P. Act II  
of 1892.U. P. Act II  
of 1900.

3. (1) In section 4 of the said Act the words and figures "in which the provisions of Act XX of 1856 are in force, or" shall be omitted; and after the figures and word "2,000 inhabitants" the words "or in such other villages as the Local Government may from time to time by general or special order direct" shall be inserted.

Amendment  
of section 4,  
U. P. Act  
II of 1892.

(2) In the said section between the words "purity of the water-supply" and the words "of the village" shall be inserted the words "and general sanitary condition."

(3) After sub-clause (3) of the said section the following shall be added as sub-clause (4):—

[*Supra*, p. 477.]

4. After sub-clause (3) of section 5 the following shall be added as sub-clause (4):—

Amendment  
of section 5,  
U. P. Act II  
of 1892.[*Supra*, p. 477.]

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1912, Pt. VII, p. 243; and for proceedings in Council, see *ibid.*, 1912, Pt. VII, pp. 212 and 408.

<sup>2</sup> *Supra*.

<sup>3</sup> See now the United Provinces Municipalities Act, 1916 (U. P. Act 2 of 1916), *infra*.

Amendment  
of section 13,  
U. P. Act II  
of 1892.

5. In section 13, sub-section (2) of the said Act for clause (a) the following clause shall be substituted, namely—

[*Supra*, p. 478.]

Amendment  
of section 14,  
U. P. Act II  
of 1892.

6. (1) In section 14 of the said Act between the word “water-supply” and the words “and defining and prohibiting public nuisances” the words “prohibiting or regulating the making of pits and excavations,” and between the word “in” and the words “any village” the words “or near” shall be inserted.

(2) In the said section for the word “make” in the first line shall be substituted the word “frame” and at the end of the section for the words “in which a local inquiry has been made under section 4” shall be substituted the words “to which the Collector may under section 5 (4) declare such rules or any of them applicable.”

Amendment  
of section 15,  
Act II of  
1892.

7. In section 15, sub-section (2) of the said Act after the word “applied” the words “for the benefit of the village” shall be inserted.

8. For the word “Government” wherever used in the Act shall be substituted the words “Local Government.”

## UNITED PROVINCES ACT No. VI OF 1912.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[12th August, 1912; 4th October, 1912.]

An Act to make provision in the United Provinces for preventing the adulteration of food and drugs.

WHEREAS it is expedient to make provision in the United Provinces for preventing the adulteration of food and drugs; It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the United Provinces Prevention of Adulteration Act, 1912.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1911, Pt. VII, p. 25; for Report of Select Committee, see *ibid*, 1912, Pt. VII, p. 131; and for Proceedings in Council, see *ibid*, 1911, Pt. VII, pp. 19 and 284, and *ibid*, 1912, Pt. VII, pp. 180 and 412.

(2) This section extends to the whole of the United Provinces; the rest of this Act extends only to such local areas as the Local Government may, by notification in the gazette, direct.

(3) The Local Government in extending the rest of this Act as provided by sub-section (2) of this section may so extend it in respect of any specified article of food or of any specified drug or generally in respect of all articles of food or of all drugs.

2. In this Act, unless there is something repugnant in the subject Definitions or context—

“ food ” includes every article used for food or drink by man other than drugs or water;

“ drug ” includes medicine for internal or external use and every substance which the Local Government may declare to be a drug for the purposes of this Act, together with every preparation and admixture of the same;

“ public analyst ” means every person appointed by the Local Government to perform the duties and to exercise the powers of a public analyst as prescribed by this Act;

“ local area ” includes a municipality, cantonment, notified area, town area, and any area in which a fair or market is held;

“ local authority ” in the case of a municipality means the municipal board, in the case of a cantonment the cantonment authority and in the case of any other local area the District or Sub-Divisional Magistrate.

3. The Local Government may, by notification as aforesaid, appoint any person whom it may think fit to be public analyst in respect of any area prescribed thereby.

Power of the Local Government to appoint public analyst.  
Penalty for sale or manufacture of food or drugs, not of the proper nature, substance or quality.

4. (7) Whoever sells to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance or quality of the article or drug demanded by such purchaser, or sells or offers or exposes for sale or manufactures for sale any article of food or any drug which is not of the nature, substance or quality which it purports to be, shall be punished for the first offence with fine which may extend to one hundred rupees and for a second or any subsequent offence with fine which may extend to five hundred rupees:

Provided that no offence shall be deemed to have been committed under this section in the following cases, that is to say—

(a) where any matter or ingredient not injurious to health has been added to the food or drug because the same is required

for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or drug or conceal the inferior quality thereof:

- (b) where in the process of production, preparation or conveyance of such article of food or drug some extraneous substance has unavoidably become intermixed therewith:
- (c) where any matter or ingredient not injurious to health has been added to or mixed with such article of food or drug and before the sale thereof the seller has brought to the notice of the purchaser, either by means of a label distinctly and legibly written or printed on or with the article or drug or otherwise, the fact that such matter or ingredient has been so added or mixed:
- (d) where the article of food or drug is a proprietary food or medicine.

(2) In a prosecution under this section the Court may presume that any article of food or any drug found in the possession of a person who is in the habit of manufacturing like articles or drugs has been manufactured for sale.

Presumption arising on sale of *ghi* containing substance not exclusively derived from milk.

5. If in compliance with a demand for *ghi* or butter any article is supplied which contains any substance not exclusively derived from milk, such article shall be deemed to have been sold to the prejudice of the purchaser within the meaning of section 4.

Bar of certain places in defence in prosecutions under section 4.

6. In any prosecution under section 4, it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article or drug sold by him, or that the purchaser having bought only for analysis was not prejudiced by the sale:

Provided that the vendor shall not be deemed to have committed an offence under section 4, if he proves to the satisfaction of the Court:—

- (a) that the article or drug sold was purchased by him as the same in the nature, substance and quality as that demanded by the purchaser and with a written warranty to the effect that it was of such nature, substance and quality.
- (b) that he had no reason to believe at the time when he sold it that the article or drug was not of such nature, substance and quality as aforesaid, and
- (c) that he sold it in the same state in which he purchased it.

7. Any purchaser of an article of food or of a drug shall be entitled, on payment of such fees as the Local Government may prescribe, to have such article or drug analysed by the public analyst appointed for the area within which such article or drug is purchased, and to receive from him a certificate of the result of his analysis.

Power of purchaser to have article of food or drug analysed.

8. Subject to any rules made by the Local Government under section 14 of this Act, any person duly authorized either generally or specially in this behalf by a local authority may procure any sample of food or drugs and may submit the same to be analysed by the public analyst appointed for the area within which such sample has been procured.

Power to procure samples of food or drug for analysis.

9. (1) Any person purchasing any article of food or any drug with the intention of submitting the same to be analysed by a public analyst shall, after the purchase has been completed, forthwith notify to the seller or his agent selling the article or drug his intention to have the same analysed as aforesaid, and shall offer to divide the article or drug into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature permits, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

Procedure when sample of food or drugs is purchased for analysis

He shall afterwards retain one of the said parts for future comparison and submit the third part, if he deems it right to have the article analysed, to the public analyst.

(2) If the seller or his agent do not accept the offer of the purchaser as aforesaid to divide the article or drug purchased in his presence, the public analyst receiving the article or drug for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he supplies his certificate to be delivered to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

10. If any person duly authorized as provided by section 8 or by a rule framed under section 14, as the case may be, applies to purchase any article of food or any drug exposed for sale and tenders the price for a quantity not more than is reasonably requisite for the purpose of analysis, and the person exposing the same for sale refuses to sell the same, the person so refusing shall be punished with fine which may extend to fifty rupees.

Penalty for refusing to sell sample of food or drugs for analysis.

11. (1) Every public analyst to whom any article of food or any drug has been submitted for analysis under section 7 or under section 8 or a rule framed under section 14, as the case may be, shall deliver to the person so submitting it a certificate, in the form prescribed in the schedule

Duty of public analyst to supply certificate of analysis.

attached to this Act, specifying the result of his analysis and shall send a copy of the same to the local authority concerned.

Certificate to be evidence of facts therein stated.

(2) Any document purporting to be such certificate under the hand of a public analyst may be used as evidence of the facts therein stated in any inquiry, trial or other proceeding under this Act:

Power to call for report from Chemical Examiner.

Provided that any Court before which a case under this Act may be pending, whether exercising original, appellate or revisional jurisdiction, may in its discretion, at the request either of the accused or the complainant, cause any article of food or any drug to be sent for analysis to the Chemical Examiner to Government, who shall thereupon analyse the same and report the result of such analysis to the said Court: the expense of such analysis shall be paid by the accused or the complainant, as the Court may by order direct.

Cognizance of offences.

12. No prosecution under section 4 or section 10 shall be instituted without the order or consent in writing of the local authority, or, in the case of a municipal board or a cantonment authority, of the person or persons authorized in this behalf by the said municipal board or cantonment authority.

Jurisdiction.

13. No Magistrate whose powers are less than those of a Magistrate of the second class shall try any offence under this Act.

Power of Local Government to make rules.

14. The Local Government may, after previous publication, make rules consistent with this Act—

- (a) providing for the appointment of persons to be called official inspectors, to carry out the provisions of section 8 and of the Act generally,
- (b) prescribing the qualifications of such official inspectors and the powers to be exercised by them,
- (c) regulating the areas within which such official inspectors shall respectively exercise their powers.

Limitation for prosecutions.

15. (1) No summons shall issue for the attendance of any person accused of an offence under section 4 or section 10, unless the same is applied for within thirty days from the date upon which the order or consent referred to in section 12 shall have been made or given.

Particulars to be contained in summons.

(2) Every summons issued in a prosecution under section 4 or section 10 shall specify the particulars of the offence charged and the name of the prosecutor; and the day fixed for the hearing of the case shall not be less than seven days from the day on which the summons is served upon such person.

## SCHEDULE.

## FORM OF CERTIFICATE.

To<sup>r</sup>

I, the undersigned, public analyst for the \_\_\_\_\_ do hereby  
 certify that I received on the \_\_\_\_\_ day of  
 19 \_\_\_\_\_ from† \_\_\_\_\_ a sample of  
 for analysis (which then weighed‡ \_\_\_\_\_) and have analysed  
 the same and declare the result of my analysis to be as follows:—

. I am of opinion that the same is a sample of genuine

<sup>1</sup>[or

I am of opinion that the said sample contained a  $\frac{\text{large}}{\text{small}}$  proportion of  
an ingredient foreign to pure ¶  
ingredients

¶(milk, *ghi* or any particular edible oil, as the case may be.)]

§Observations.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 19  
 A. B.  
 at \_\_\_\_\_

\* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample. If the sample is received  
 by post or by railway entry should be made accordingly.

‡ When the article cannot be conveniently weighed this passage may be erased or the  
 blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture  
 (if any) was for the purpose of rendering the article potable or palatable, or of preserving  
 it, or of improving the appearance, or was unavoidable, and may state whether in excess of  
 what is ordinary or otherwise, and whether the ingredients or materials mixed are or are  
 not injurious to health.

In the case of a certificate regarding milk, butter or any article liable to decomposition,  
 the analyst shall specially report whether any change had taken place in the constitution  
 of the article that would interfere with the analysis.

## UNITED PROVINCES LOCAL RATES ACT, 1914.

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<sup>1</sup> These words were substituted by s. 2 of the United Provinces Prevention of  
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UNITED PROVINCES ACT I OF 1914.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[30th December, 1913; 22nd February, 1914.]

An Act to amend the law relating to the imposition of certain rates on land in the United Provinces and the employment of the proceeds thereof.

WHEREAS it is expedient to amend the law relating to the imposition of certain rates on land in the United Provinces and the employment of the proceeds thereof; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the United Provinces Local Rates Act, Short title and extent.  
1914; and

(2) It extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

2. In this Act, unless there is anything repugnant in the subject or Definitions.  
context,—

(1) “annual value” means—

(a) where the settlement of the land revenue is liable to periodical revision, double the amount of the land revenue for the time being assessed on an estate;

(b) where such settlement is not liable to periodical revision, or where the land revenue has been wholly or in part released, compounded for, redeemed or assigned, double

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1913, Pt. VII, p. 424; and for Proceedings in Council, see *ibid.*, 1913, Pt. VII, pp. 490, 612, 664 and 690.

the amount which, if the settlement were liable to periodical revision or if there had been no such release, composition, redemption or assignment, would have been assessed as land revenue on the estate:

- (2) "district board" and "district fund" mean respectively a board established, and a district fund formed, under the <sup>1</sup>United Provinces District Boards Act, 1906:

U. P. Act III  
of 1906.

- (3) "estate" means any local area separately assessed to land revenue or separately exempted from payment thereof:

- (4) "land" means land assessed to land revenue, and includes land of which the land revenue has been wholly or in part released, compounded for, redeemed or assigned:

- (5) "landlord" means the person responsible for the payment of the land revenue, if any, assessed on the estate, and includes a muafidar or other person holding land of which the land revenue has been wholly or in part released, compounded for, redeemed or assigned:

- (6) the words and expressions "rent," "permanent tenureholder," "fixed-rate tenant" and "tenant" have the meanings respectively assigned to them in the <sup>1</sup>Agra Tenancy Act, 1901: and

U. P. Act II  
of 1901.

- (7) "year" means a year commencing on the first day of April.

## CHAPTER II.

### LOCAL RATES.

Imposition of  
local rates.

3. (1) The Local Government may, by notification in the gazette, impose in any local area within Oudh or within any part of the province of Agra not subject to the Benares Permanent Settlement Regulation, 1795,<sup>2</sup> a rate to be levied in respect of each estate in such local area and to be assessed at a prescribed amount, not exceeding five per cent. upon the annual value of the estate. Ben. Reg. I of 1795.

(2) The Local Government may, in like manner, impose in any local area within any part of the province of Agra subject to the Benares Permanent Settlement Regulation, 1795,<sup>2</sup> a rate to be levied in respect of

Ben. Reg.  
XXVII of  
1795.

<sup>1</sup> *Supra*.

<sup>2</sup> *Supra*, Vol. I.

each estate in such local area and to be assessed in either of the following ways:—

- (a) at a prescribed uniform amount, not exceeding two annas per acre, upon the area under cultivation at, or within the three years immediately preceding the date of assessment, or
- (b) at prescribed differential amounts per acre on the aforesaid area according to the nature or value of the crops grown on or capable of being grown on or according to the rent realized or capable of being realized from, the several portions of such area:

. Provided that the rate to be assessed under clause (b) on any acre shall not exceed two annas.

4. The rate imposed under section 3 shall be called the local rate, and shall be paid by the landlord independently of, and in addition to, any land revenue for the time being assessed on the estate and any cess now levied on account of roads. Liability of landlord to pay local rates.

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6. All sums due on account of any local rate shall be recoverable as if they were arrears of land revenue due in respect of the estate on which the rate is imposed. Recovery of rates.

7. The local rate imposed under sub-section (2) of section 3 shall be recoverable by the landlord Landlord's right in permanently settled areas to recover local rates from tenants.

- (1) from a permanent tenure-holder, fixed-rate tenant or tenant holding rent-free, to the extent of the whole amount paid on account of the land held by him; and
- (2) from any other tenant to the extent of one-half of such amount.

8. Where a local rate is imposed in Oudh under sub-section (1) of section 3 on any estate, the landlord may recover the rate from an under-proprietor or a permanent lessee of land within the estate whose rent has been fixed or recorded by a competent court, or from a person who holds Landlord's right in Oudh to recover local rates from under-

proprietors,  
permanent  
lessees and  
persons  
holding free  
of rent in  
perpetuity.

land comprised in the estate free of rent in perpetuity, to the following extent, namely, from such under-proprietor or lessee a sum bearing the same proportion to a sum calculated at  $2\frac{1}{2}$  per cent. on the annual value of the land held by him as such annual value after deduction therefrom of the rent so fixed or recorded bears to half such annual value, and from such person a sum equal to  $2\frac{1}{2}$  per cent. on the annual value of the land held by him, and

(a) if at the date of the commencement of this Act the rural police rate payable under the <sup>1</sup>United Provinces Local and Rural Police Rates Act, 1906, in respect of such land was wholly recoverable from such under-proprietor, permanent lessee or person, <sup>U. P. Act II of 1906.</sup>

then from such under-proprietor, permanent lessee or person the whole of the difference between a sum calculated on such annual value at  $2\frac{1}{2}$  per cent. and a sum calculated thereon at the percentage leviable as local rate in respect of the estate, and

(b) if at such date the rural police rate was partially recoverable from such under-proprietor, permanent lessee or person,

then from such under-proprietor, permanent lessee or person the aforesaid proportion to such difference and from such person the whole of such difference.

*Explanation.*—In this section the annual value of any land comprised in an estate means double the land revenue paid by the superior proprietor on account of the land in question.

Landlord's  
right to  
recover con-  
tribution for  
local rate  
from  
co-sharer.

9. A landlord who has paid on behalf of a co-sharer any sum due from such co-sharer on account of the local rate may recover such sum from such co-sharer.

Mode of  
recovery in  
certain cases.

10. (1) Any sum recoverable by a landlord from an under-proprietor or lessee under section 8, or from a co-sharer under section 9, may be recovered by suit as hereinafter provided.

(2) In cases in which the provisions of section 185 or section 184 of the <sup>2</sup>United Provinces Land Revenue Act, 1901, apply to the recovery of arrears of rent due from such under-proprietor or lessee or to the recovery of a payment made on account of revenue due from such co-sharer, the landlord may, instead of suing, recover such sum in the manner permitted by those provisions as if the sum were an arrear of rent or had been paid on account of revenue, as the case may be. <sup>U. P. Act III of 1901.</sup>

<sup>1</sup> U. P. Act 2 of 1906 has been repealed by this Act—see s. 19 *infra*.

<sup>2</sup> *Supra*.

11. (1) Where any sum is exacted as being due on account of any local rate imposed under section 3 from any person of the class from which such rate is declared by section 7 or section 8 to be recoverable, then—

- (a) if such sum was not recoverable under either of the sections last mentioned, the amount of such sum, and
- (b) if such sum, whether it was or was not so recoverable, was obtained by coercion or fraud, such compensation, not exceeding two hundred rupees, as the court thinks fit to decree may be recovered by such person from the person who exacted such sum.

(2) An award of compensation under sub-section (1) shall not affect any punishment to which the person who exacted the sum may be liable XLV of 1860. under the <sup>1</sup>Indian Penal Code.

12. Suits for the recovery of sums on account of any local rate, any suits on account of illegal exaction of any rate, shall be entertained, heard and determined as if they were suits of the nature contemplated—

- (1) in the case of local rates in Agra, by section 150 or section 160, section 102 and section 36 or section 103, as the case may be, of the <sup>2</sup>Agra Tenancy Act, 1901; and
- (2) in the case of local rates in Oudh, by clause (2), clause (9), sub-head (a), and clause (16) of section 108 of the <sup>3</sup>Oudh Rent Act, 1886;

U. P. Act II  
of 1901.

XXII of  
1886.

and all matters of jurisdiction, limitation and procedure shall be regulated, so far as may be, by Chapters XII to XIV and by Chapters VIII to X of the said Acts, respectively.

13. (1) Any person aggrieved by an order purporting to be made hereunder in any matter relating to the assessment of any local rate may, within a period of sixty days from the date of such order, appeal from such order to the Commissioner, whose decision shall be final and conclusive.

(2) Notwithstanding anything in sub-section (1), the Board of Revenue may, of its own motion or upon the application of any such person as aforesaid, call for the record of any proceeding in which an order of the nature referred to in sub-section (1) has been made, and make thereon such order as justice and the circumstances of the case may require.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> *Supra*.

<sup>3</sup> *Supra*, Vol. I.

(3) The provisions of the <sup>1</sup>Indian Limitation Act, 1908, relating to <sup>IX</sup> of 1908, the exclusion of time in computing the period for presenting an appeal shall apply to appeals under this section.

Bar of  
jurisdiction  
of Civil  
Courts.

14. A suit shall not lie in any Civil Court to set aside or modify any assessment of a rate imposed under this Act.

## CHAPTER IV.

### SUPPLEMENTAL PROVISIONS.

Subsidiary  
powers of  
Local  
Government.

15. The Local Government may, by notification in the Gazette,—

- (a) exempt any estate or class of estates from assessment to or payment of, the whole or any portion of the local rate payable in respect thereof;
- (b) prescribe by what instalments and at what times any rate imposed under this Act shall be payable and by whom it shall be assessed and collected;
- (c) direct a revision of the assessment of the local rate imposed under <sup>2</sup>[sub-section (2)] of section 3;
- (d) direct the making of fresh measurements for the purpose of such revision;
- (e) make rules to carry out the purposes of this Act.

Amendment  
of Act XVII  
of 1878,  
section 17.

16. Clauses (a) and (b) of section 17 of the <sup>3</sup> Northern India Ferries <sup>XVII</sup> of 1878. Act, 1878, shall, in their application to the United Provinces, be read as if the following clause were substituted therefor, namely—

[Vol. I of this Code, p. 189.]

Release of  
under-pro-  
priators and  
permanent  
lessees from  
liability to  
maintain  
rural police.

17. From the commencement of this Act an under-proprietor or permanent lessee shall not be liable to pay any sum on account of the maintenance of the rural police, notwithstanding anything contained in any decree of a court whereby any liability, general or specific, is imposed on him in respect of such maintenance.

<sup>1</sup> Genl. Acts, Vol. VI.

<sup>2</sup> Substituted, with retrospective effect, for the words "clause (a)" by s. 2 of the United Provinces Local Rates (Amendment) Act, 1917 (U. P. Act 4 of 1917), *infra*, Vol. III.

<sup>3</sup> *Supra*, Vol. I.

1914: U. P. Act I.]      *Local Rates.*

799

1914: U. P. Act II.]      *Town Areas.*

U. P. Act II  
of 1906.      18. Section 3 and clause (a) of section 15 of this Act shall, so far as Retrospective  
may be necessary to validate anything done or purporting to be done under effect of  
the United Provinces Local and Rural Police Rates Act, 1906, by the certain  
Local Government or by any officer of Government, be deemed to have sections for  
had effect as if they had been in force from the date of the commencement the purpose  
of that Act. of validating  
things done.

19. The United Provinces Local and Rural Police Rates Act, 1906, is hereby repealed.      Repeal of  
United Pro-  
vinces Act  
II of 1906.

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## UNITED PROVINCES TOWN AREAS ACT, 1914.

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UNITED PROVINCES ACT II OF 1914.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[24th December, 1913; 25th February, 1914]

An Act to make better provision for the sanitation, lighting and improvement of town areas in the United Provinces of Agra and Oudh.

WHEREAS it is expedient to make better provision for the sanitation, lighting and improvement of town areas in the United Provinces of Agra and Oudh; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title,  
commence-  
ment and  
extent.

1. (1) This Act may be called the United Provinces Town Areas Act, 1914.

(2) It shall come into force at once; and

(3) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) an act shall be deemed to be the act of a panchayat when it is done with the previous consent of, or of a majority of, all such members for the time being serving on the panchayat as are not incapacitated by illness or absence from the town areas from signifying their consent thereto:

provided that it is done with the previous consent of at least two members of the panchayat;

(2) “annual value” means the gross annual rent at which any house or land may be reasonably expected to let from year to year;

(3) “house” includes any shop, warehouse, shed or enclosure used for keeping carts or cattle;

(4) “land” does not include land used for agricultural purposes or pastoral purposes;

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1913, Pt. VII, p. 22; for Report of Select Committee, see *ibid*, 1913, Pt. VII, p. 527; and for Proceedings in Council, see *ibid*, 1913, Pt. VII, pp. 34 and 575.

- (5) "occupier" means, in the case of a house let out to several tenants or to lodgers or travellers, the person who lets the house or receives or is entitled to receive, the rents or payments from the tenants or the lodgers or travellers;
- (6) "prescribed" means prescribed by this Act or by any rule or order made thereunder;
- (7) "public road" means any road, street, thoroughfare, passage or place over which the public have a right of way;
- (8) "town area" means any local area which the Local Government has declared or defined under section 3 to be a town area; and
- (9) "Town Magistrate" means, in respect of any town area, the Sub-Divisional Magistrate in charge of the sub-division within which such town area is situated, unless and until some other Magistrate has been appointed under section 4, in which case the expression means such other Magistrate.

## CHAPTER II.

### TOWN AREAS, MAGISTRATE, PANCHAYAT AND SERVANTS.

#### *Town areas.*

3. (1) The Local Government may, by notification in the Gazette:—
- (a) declare any town, village, suburb, bazar or inhabited place to be a town area for the purposes of this Act, and may unite, for the purpose of declaring the area constituted by such union to be a town area, the whole or a portion of any town, village, suburb, bazar or inhabited place with the whole or a portion of any other town, village, suburb, bazar or inhabited place,
  - (b) define the limits of any town area for the like purposes,
  - (c) include or exclude any area in or from any town area so declared or defined, and
  - (d) at any time cancel any notification under this section: provided that an agricultural village shall not be declared, or included within the limits of, a town area.

(2) The decision of the Local Government that any inhabited area is not an agricultural village within the meaning of the proviso to sub-section (1) of this section shall be final and conclusive, and the publication

in the Gazette of a notification declaring such area to be a town area or within the limits of a town area shall be conclusive proof of such decision.

*Town magistrate.*

Appointment  
of Town  
Magistrate.

4. The District Magistrate may appoint any Magistrate, other than the Sub-divisional Magistrate, to exercise the powers and perform the duties of the Town Magistrate under this Act in respect of any town area.

*Town panchayat.*

Constitution  
of town  
panchayat.

5. (1) A panchayat shall be established for each town area.

(2) The panchayat shall consist of three or more members to be appointed by the District Magistrate or elected in the prescribed manner or partly so appointed and partly so elected as the Local Government may by general or special order prescribe:

Proviso.—At least one-third of the members of the panchayat shall be elected.

(3) The Local Government may by order exclude any town area from the operation of the proviso to sub-section (2) of this section.

Term of office  
of member  
of panchayat.

6. (1) Subject to any rule made by the Local Government in this behalf, the term of office of a member of a town panchayat shall be three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for appointment or election.

Removal of  
member of  
panchayat.

7. The Commissioner may remove any member of a panchayat who is in his opinion unfit to act or persistently remiss in the discharge of his duties as such member.

Duties of  
panchayat.

8. The duties of the panchayat shall be—

- (a) to perform any duty specially assigned to it by this Act, or by any rule or order made under this Act,
- (b) to advise the District Magistrate or the Town Magistrate in respect of the matters prescribed in section 26, and
- (c) generally to render such assistance to the District Magistrate or the Town Magistrate in the discharge of their functions under this Act as may reasonably be required of it by these officers.

*Town servants.*

Establish-  
ment list.

9. (1) The panchayat shall as soon as may be practicable prepare an establishment list of the permanent staff of tax collectors and other servants necessary for carrying out the purposes of this Act and of the duties,

salary and allowances to be attached to the respective posts entered therein.

(2) The panchayat shall, when so required by the Town Magistrate from time to time, revise the establishment list prepared under sub-section (1).

(3) Every establishment list prepared under sub-section (1) or revised under sub-section (2) shall be subject to confirmation by the Town Magistrate, and, in the event of that officer refusing to confirm any establishment list, it shall be altered by the panchayat under his direction.

10. (1) Subject to confirmation by the Town Magistrate in the case of an appointment to a post of which the salary exceeds five rupees a month, the panchayat shall appoint the permanent staff prescribed in the establishment list. Appointment and control of permanent staff.

(2) Subject to like confirmation, the panchayat may fine, suspend or dismiss any member of the permanent staff so appointed.

11. With the previous sanction, express or implied, of the Town Magistrate, the panchayat may from time to time appoint, prescribe the remuneration and duties of, and discontinue or dismiss such servants as may temporarily be required to supplement the permanent staff. Appointment and control of temporary staff.

12. Except in the manner prescribed by sections 9, 10 and 11, a person shall not be appointed a town servant or employed as such. Prohibition of unauthorized service.

13. Every town tax-collector or other town servant permanently or temporarily appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the <sup>1</sup>Indian Penal Code. Town servant to be deemed public servants.

XLV of 1860.

### CHAPTER III.

#### TAXATION AND TOWN FUND.

##### *Taxation.*

14. The District Magistrate shall, after ascertaining the opinion thereon of the panchayat, annually determine the amount required to be raised in any town area for the purposes of this Act, and the amount so determined shall be raised by the imposition of a tax to be assessed on the occupiers of houses or lands within the limits of the town area according either to their circumstances or to the annual value of the houses and lands occupied by them, as the District Magistrate may in like manner determine: Imposition of town tax.

<sup>1</sup> Genl. Acts, Vol. I.

Provided that, in the case of a tax assessed\* according to circumstances as aforesaid, the amount assessed in respect of any one person shall not exceed seven rupees eight annas per month; and, in the case of a tax assessed according to the annual value of houses and land, the amount assessed in respect of any house or land shall not exceed  $6\frac{1}{2}$  per cent. of the annual value of the house or land:

Provided also that, whenever the District Magistrate does not accept the opinion of the panchayat, he shall record his reasons in writing for not doing so.

Assessment  
of tax.

15. (1) Subject to any rules made in this behalf by the Local Government, the panchayat, established for any town area, shall, as soon as may be, prepare a list of the persons liable to pay the tax imposed under section 14 and of the amounts to be paid respectively by such persons.

(2) The panchayat shall, when so required by the Town Magistrate, from time to time revise the assessment list prepared under sub-section (1).

(3) Every assessment in a list prepared under sub-section (1) or revised under sub-section (2) shall be subject to confirmation by the Town Magistrate, and any assessment which such Magistrate refuses to confirm shall be altered by the panchayat under his direction.

(4) An assessment, when confirmed by the Town Magistrate, shall not be subject to alteration except upon revision of the assessment list under sub-section (2) or in pursuance of an order passed in appeal under the provisions of section 18.

Exemptions  
from tax.

16. Subject to any rules made in this behalf by the Local Government, the District Magistrate may, by order, exempt in whole or in part from the payment of any tax imposed under this Act any person or class of persons or property or description of property.

Publication  
of assessment  
list.

17. The panchayat shall cause a copy of every assessment list prepared or revised under section 15 and confirmed by the Town Magistrate to be posted in a conspicuous place within the town area and shall cause a register of assessments to be maintained at such place and in such manner as the District Magistrate may prescribe.

Appeals from  
assessment  
or levy of  
tax.

18. (1) An appeal against the assessment or levy of any tax shall lie to the District Magistrate or to such Magistrate other than the Town Magistrate as he may appoint in this behalf.

(2) A Court-fee shall not be payable on an appeal presented under sub-section (1) of this section.

(3) An appeal under the said sub-section shall not be admitted after the expiry of thirty days from the date of posting under section 17, unless the appellant shows sufficient reason for failing to appeal within the said period.

(4) The decision of the appellate authority prescribed in sub-section (1) of this section shall be final and shall not be called in question in any court.

19. The tax shall be payable in such instalments, and each instalment shall become due on such date as the panchayat may, subject to any rules framed by the Local Government in this behalf, prescribe by notice posted in a conspicuous place within the town area: <sup>Payment of tax.</sup>

Provided that any person so desirous may pay the whole year's tax in advance.

20. On failure of any person to pay any instalment of tax on or before the specified date the panchayat shall, ordinarily within fifteen days of such date, cause a writ of demand to be served on the defaulter, or delivered at or affixed to his place of residence within the town area, or addressed by post to such place of residence or any other place where he may be known to reside. Any postal charges incurred under this section may be added to the arrear claimed and recovered as such. <sup>Writ of demand.</sup>

21. Arrears of any tax imposed under this Act may be recovered, on the expiry of three weeks from the date of the issue of a writ of demand, on application to a Magistrate having jurisdiction within the limits of the town area or in any other place within the United Provinces where the defaulter may for the time being reside, by the attachment and sale of any movable property belonging to such defaulter and within the limits of such Magistrate's jurisdiction. <sup>Recovery of arrears.</sup>

#### *Town fund.*

22. For each town area there shall be formed a town fund, and there shall be placed to the credit thereof-- <sup>The town fund.</sup>

- (a) the proceeds of any tax imposed under the provisions of this Act;
- (b) all fines realized in cases in which prosecutions for offences committed within the limits of such town area are instituted under this Act or the rules made thereunder, or under section 34 of the 'Police Act, 1861, or under any other Act or rules under any other Act, in which provision is made for the credit of such fines to the town fund;
- (c) the balance (if any) standing at the credit of the chaukidari fund of any town comprised in such town area at the date when this Act comes into force;
- (d) all sums ordered by a Court to be placed to the credit of the town fund;

- (e) the sale proceeds, except in so far as any private person is entitled to the whole or a portion thereof, all dust, dirt, dung, or refuse (including the dead bodies of animals) collected by the town servants;
- (f) such portion of the rent or other proceeds of nazul property as the Local Government may direct to be placed to the credit of the town fund;
- (g) sums contributed to the town fund by any district board;
- (h) all sums received by way of loan or gift; and
- (i) such other sums as may be assigned to the town fund by any general or special order of the Local Government

Control of  
town fund.

23. Subject to any rules framed in this behalf by the Local Government, the town fund shall be under the control of the Town Magistrate and shall be applied to—

- (a) the repayment of the principal and interest of any sum advanced as a loan by the Local Government for the purposes of this Act;
- (b) the payment of the salary and allowances of the establishment entertained under this Act;
- (c) the purchase of stationery and other contingent expenditure necessary for the purposes of this Act;
- (d) the payment of expenses incurred for the maintenance of public roads not being roads of which the maintenance is undertaken by the Government or by a district board;
- (e) the payment of expenses incurred for the repair of public wells and tanks, or for the provision of an adequate supply of pure drinking water;
- (f) the payment of expenses incurred generally for carrying out the sanitation, drainage, lighting and improvement of the town area; and
- (g) the payment of any other sums which the Local Government may by general or special order declare to be an appropriate charge on the town fund.

Custody of  
town fund.

24. Subject to any rules made in this behalf by the Local Government the Town Magistrate shall make arrangements for the proper custody of the town fund and for the remittance to such custody of all sums collected on behalf of or received to the credit of the town fund.

Power to  
require  
panchayat  
to carry out  
certain  
orders.

25. The Local Government may, by order, require a panchayat to carry out any scheme detailed in such order for the drainage of the town area or for the provision of an adequate supply of pure drinking water for the town area.



## CHAPTER IV.

## POWERS FOR SANITARY AND OTHER PURPOSES.

**26.** The District Magistrate, after taking into consideration any re- Sanitation presentation made in that behalf by the panchayat, may, by general or orders. special order in writing, provide for all or any of the following matters within the town area, namely—

- (a) the protection from pollution, purification, and periodical examination of all sources of water used for drinking purposes;
- (b) the prohibition of the removal or use for drinking purposes of any water from any stream, well, tank or other source where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in of any well, tank or other receptacle or by any other method that may be considered advisable;
- (c) the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner prejudicial to the public health, comfort or convenience;
- (d) the regulation of offensive callings or trades;
- (e) the disposal of corpses by burning or burial;
- (f) the excavation of earth and the filling up of all excavations and depressions injurious to health or offensive to the neighbourhood;
- (g) the removal of noxious vegetation;
- (h) the repair or removal of dangerous or ruinous buildings;
- (i) the disposal or destruction of materials likely to convey infection;
- (j) the regulation of slaughter-houses;
- (k) the prohibition of the storage of more than a fixed quantity of petroleum in any building within the town area.

**27.** The District Magistrate may by written order delegate to the town magistrate all or any of the powers conferred by the preceding section in respect of the town area.

Delegation by district magistrate of the power to issue sanitation orders.

**28.** A copy of every order issued under section 26 shall be posted in some conspicuous place within the town area.

Publication of sanitation orders.

**29.** (1) An order of the District Magistrate under section 26 shall be final and shall not be called in question in any Court.

Appeals against sanitation orders.

(2) An appeal shall lie to the District Magistrate against any order passed by a Sub-Divisional Magistrate under section 27.

(3) Such appeal shall be preferred within thirty days from the date when the order was posted.

(4) The decision of the District Magistrate in appeal shall be final and shall not be called in question in any court.

Naming of streets and numbering of houses.

30. The panchayat may cause a name to be given to any street and affixed in such place or places as it may think fit, and may also cause a number to be affixed to every house in any street or muhalla, for the purpose of identifying such house.

## CHAPTER V.

### OFFENCES.

Breach of any sanitation order.

31. Any person guilty of a breach of an order under section 26 shall be liable upon conviction to a fine which may extend to ten rupees, and when the breach is a continuous breach with a further fine which may extend to two rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Removal of names and numbers affixed to streets and houses. Jurisdiction of courts to try offences.

32. Any person who wilfully removes, obliterates or destroys any name or number affixed by the panchayat under section 30 shall be liable, upon conviction, to a fine which may extend to twenty rupees.

33. Offences under this Act shall be triable by any Magistrate within whose jurisdiction any such offence may have been committed:

Provided that no Magistrate other than the Town Magistrate shall take cognizance of any offence punishable under this Act except with the previous sanction or on the complaint of the Town Magistrate.

## CHAPTER VI.

### SUPPLEMENTAL PROVISIONS.

Application of town fund when area ceases to be a town area.

34. When by reason of the cancellation under clause (d) of section 3 of an order under clause (a) of the said section any area ceases to be a town area, the unexpended proceeds of any tax levied therein shall be applied for the benefit of the inhabitants of the said area as the Local Government may think fit.

Power of town magistrate to assume functions of panchayat.

35. If any panchayat refuses or omits to perform any prescribed duty, the Town Magistrate may perform such duty, and any assessment made or revised or any other thing done by the Town Magistrate in the exercise of the power conferred by this section may be enforced as if it had been made, revised or done by the panchayat.

36. (1) If in the opinion of the Local Government, a panchayat persistently makes default in the performance of the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, by an order published, with the reasons for making it, in the Gazette, declare that panchayat to be in default, or to have exceeded or abused its powers, and supersede it for a period not exceeding two years to be specified in the order.

(2) When a panchayat is so superseded, the following consequences shall ensue:—

- (a) all members of the panchayat shall as from the date of the order vacate their offices as such members;
- (b) all powers and duties of the panchayat may, during the period of supersession, be exercised and performed by the Town Magistrate;
- (c) on the expiration of the period of supersession specified in the order the panchayat shall be reconstituted, and the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for being members.

37. The Local Government may, by notification in the Gazette, confer or impose on any panchayat established under this Act all or any of the powers conferred or duties imposed by the Act or by rules made thereunder on the Town Magistrate, and in like manner may divest any panchayat of any power conferred or duty imposed under this section.

38. (1) The Local Government may, by notification in the Gazette, extend to all town areas or to any town area or to any part of a town area any enactment for the time being in force in any municipality in the United Provinces, and declare its extension to be subject to such restrictions and modifications, if any, as it thinks fit.

(2) Where any enactment is so extended, any provision of this Act inconsistent with such extension or declared in the aforesaid notification to be inoperative shall cease to have effect so long as the extension is in force.

(3) When any enactment has been so extended the functions of the municipal board shall, so long as the extension is in force, be discharged by the District Magistrate or by the panchayat if so empowered by the Local Government.

(4) When the panchayat is empowered under sub-section (3) to discharge any functions assigned to the municipal board by any enactment so extended, the Local Government may declare applicable also to the panchayat, for such period as the extension continues in force and subject to such restrictions and modifications, if any, as it thinks fit, any enactment prescribing the status, rights or liabilities of the municipal board in respect of the exercise of such functions.

Power of Local Government to supersede panchayat in case of persistent default or abuse of powers.

Power of Local Government to confer on panchayats powers of town magistrate.

Extension of enactments to town areas.

(5) The Local Government may, by notification in the Gazette, direct that any enactment so extended shall cease to be extended to any town area or part of a town area.

Power of  
Local Gov-  
ernment to  
make rules.

**39.** (1) The Local Government may make rules applicable to all or any town areas for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1) of this section, such rules may relate to all or any of the following matters or be for all or any of the following purposes:—

- (a) to regulate and control the powers conferred by this Act or by any rule made under this section on any officer of Government or on the panchayat;
- (b) to prescribe for any such officer or for the panchayat any duty in addition to those prescribed by this Act;
- (c) to prescribe or regulate in respect of all or any town areas the number of members to compose the panchayats established therein;
- (d) as to the term of office of any or all of the members of any panchayat, and as to the method of filling casual vacancies;
- (e) as to the provision (if any) to be made for the special representation of any classes of the community;
- (f) as to the qualifications of electors and of candidates for election to the panchayat, as to the registration of such electors, as to the nominations of such candidates, as to the time of election and mode of recording votes, as to the method of settling disputes or questions arising from elections, and generally for regulating all elections under this Act;
- (g) as to the custody of the town fund;
- (h) as to the form in which any accounts are to be kept or any register maintained;
- (i) as to the proportions in which the town fund shall be expended, and as to the preparation of estimates of incomes and expenditure;
- (j) as to the preparation of plans and estimates for works of construction involving expenditure from a town fund, and as to the authorities by whom, the conditions subject to which, such plans and estimates may be sanctioned;
- (k) as to the returns, statements and reports to be submitted by the Town Magistrate;
- (l) to regulate the imposition, assessment and collection of any tax imposed under this Act, and to prevent the evasion of the same;

(m) as to the exemption from taxation of any person or class of persons or property or description of property.

(3) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

U. P. Act II  
of 1892.

40. The <sup>1</sup>United Provinces Village Sanitation Act, 1892, shall, so long as any area is a town area under this Act, not be operative therein.

Village  
Sanitation  
Act, 1892,  
not to apply  
to town  
areas.

XX of 1856.

41. The Bengal Chaukidari Act, 1856, in so far as it extends to the United Provinces is hereby repealed.

Repeal of  
Bengal Chan-  
kidari Act,  
1856.

42. Notifications published, local limits defined, taxes imposed, assessments, revisions and appointments made, lists prepared, powers conferred, duties assigned and exemptions granted under the Bengal Chaukidari Act, 1856, shall, so far as they are consistent with this Act, have the same force and effect as if they had been respectively published, defined, imposed, made, prepared, conferred and granted under this Act and by the authority empowered thereby in such behalf:

Savings.

XX of 1856.

Provided that the term of office of a panchayat appointed under the former Act shall not by reason of, this section be extended beyond one year from date of appointment.

43. In every enactment passed before this Act comes into force in which reference is made to, or to any section of, the Bengal Chaukidari Act, 1856, such reference shall, so far as may be practicable, be deemed to be made to this Act or to its corresponding section.

References  
in other  
enactments  
to the  
Bengal  
Chaukidari  
Act, 1856.

## UNITED PROVINCES ACT, No. III OF 1914.<sup>2</sup>

[APPLIES TO THE UNITED PROVINCES.]

[6th February, 1914; 10th April, 1914.]

### An Act to amend the United Provinces Excise Act, 1910.

U. P. Act IV  
of 1910.

WHEREAS it is expedient to amend the <sup>1</sup>United Provinces Excise Act, Short title, 1910; It is hereby enacted as follows:—

1. This Act may be called the United Provinces Excise (Amendment) Act, 1914.

<sup>1</sup> *Supra.*

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1914, Pt. VII, p. 5; and for Proceedings in Council, see *ibid*, 1914, Pt. VII, p. 37.

Amendment  
of section  
3 (12) of the  
United Pro-  
vinces Excise  
Act, IV of  
1910.

2. For sub-section (12) of section 3 of the <sup>1</sup>United Provinces Excise Act, 1910, the following sub-section shall be substituted, namely—

U. P. Act IV  
of 1910.

[*Supra*, p. 731.]

Addition to  
section 3 of  
the United  
Provinces  
Excise Act,  
IV of 1910.

3. After sub-section (22) of section 3 of the said Act the following sub-section shall be added, namely—

[*Supra*, p. 732.]

Amendment  
of section  
5 of the  
United  
Provinces  
Excise Act,  
IV of 1910.

4. In section 5 of the said Act the word, brackets and letter ‘ and (b) ’ shall be inserted after the word, figures, brackets and letter ‘ section 3 (12) (a). ’

Amendment  
of section  
60 of the  
United  
Provinces  
Excise Act,  
IV of 1910.

5. For the last portion of section 60 of the said Act, that is to say the portion beginning with the words “ shall be punished ” and ending with the words “ or with both,” the following shall be substituted, namely :—

[*Supra*, p. 750.]

### UNITED PROVINCES ACT No. I of 1915.<sup>2</sup>

[APPLIES TO THE UNITED PROVINCES.]

[5th December, 1914; 6th January, 1915.]

### An Act further to amend the United Provinces Excise Act of 1910.

WHEREAS it is expedient further to amend the <sup>1</sup>United Provinces Excise Act, 1910; It is hereby enacted as follows :—

Short title.

1. This Act may be called the United Provinces Excise (Amendment) Act, 1915.

Amendment  
of sections  
48, 56 and 58  
of the  
United  
Provinces  
Excise Act,  
1910.

2. In sections 48, 56 and 58 of the <sup>1</sup>United Provinces Excise Act, 1910, the expression “ officer of the Excise Department ” shall be substituted for the expression “ excise officer ” and “ other excise officer,” wherever they occur.

U. P. Act IV  
of 1910.

Amendment  
of section  
49 of the  
United  
Provinces  
Excise Act,  
1910.

3. (1) In section 49, sub-section (1) of the said Act, for the opening words ending with the word “ investigate ” the following shall be substituted, namely :—

[*Supra*, p. 747.]

<sup>1</sup> *Supra*.

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1914, Pt. VII, p. 423; and for Proceedings in Council, see *ibid*, 1914, Pt. VII, pp. 474 and 521.

(2) In sub-section (2) of the same section, for the words "Every officer so empowered may within such limits" the words "Any such officer may" shall be substituted.

4. (1) In section 53, sub-section (1) of the said Act, for the opening words and figures ending with the words and figures "or section 65" the following shall be substituted, namely:—

[*Supra*, p. 748.]

and for the words "an excise officer" in the proviso the words "any officer" shall be substituted.

• (2) In sub-section (2) of the same section for the words "Every Collector or other excise officer" the words "The Collector or other officer" shall be substituted.

U. P. Act IV of 1910. 5. So far as may be necessary to validate anything hitherto done, the United Provinces Excise Act, 1910,<sup>1</sup> as amended by this Act, shall be deemed to have been in force from the date of the commencement of that Act.

U. P. Act IV of 1910. 6. For section 3 (9) of the United Provinces Excise Act, 1910,<sup>1</sup> the following clause shall be substituted, namely:—

[*Supra*, p. 730.]

U. P. Act IV of 1910. 7. For section 62 of the United Provinces Excise Act, 1910,<sup>1</sup> the following section shall be substituted, namely:—

[*Supra*, p. 751.]

## UNITED PROVINCES ACT No. 11 of 1915.<sup>2</sup>

[APPLIES TO THE UNITED PROVINCES.]

[5th December, 1914; 8th January, 1915.]

### An Act to amend the United Provinces District Boards Act, 1906.

U. P. Act III of 1906. WHEREAS it is expedient to amend the United Provinces District Boards Act, 1906 (hereinafter referred to as "the said Act"); It is hereby enacted as follows:—

1. This Act may be called the United Provinces District Boards Short title. (Amendment) Act, 1915.

<sup>1</sup> *Supra*.

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1914, Pt. VII, p. 491; and for Proceedings in Council, see *ibid*, 1914, Pt. VII, p. 522.

Amendment  
of section  
42 of the  
United  
Provinces  
District  
Boards Act,  
1906.

2. (i) The word "and" at the end of clause (m) of sub-section (I) of section 42 of the said Act shall be deleted.

(ii) The full stop at the end of clause (n) of sub-section (I) of section 42 of the said Act shall be changed to a semi-colon and the word "and" shall be added after it.

(iii) After clause (n) of sub-section (I) of section 42 of the said Act the following clause shall be added, namely—

[*Supra*, p. 712.]

Amendment  
of section  
44 of the  
United  
Provinces  
District  
Boards  
Act, 1906.

3. (i) In section 44 of the said Act the word "and" before the words "fees at fairs" shall be deleted, and after the word "stallions" a comma shall be inserted.

(ii) For the full stop after the word "authority" at the end of the section a comma shall be substituted and the following words shall be added to the section, namely—

[*Supra*, p. 713.]

(iii) After section 44 of the said Act the following shall be added as section 44A, namely—

[*Supra*, p. 713.]

Amendment  
of section  
56 of the  
United  
Provinces  
District  
Boards Act,  
1906.

4. (i) After clause (v) of sub-section (I) of section 56 of the said Act the following clause shall be added, namely—

[*Supra*, p. 720.]

(ii) In sub-section (I) of section 56 of the said Act for the brackets and letters "(w)" and "(x)" shall be substituted the brackets and letters "(x)" and "(y)" respectively.

(iii) In sub-section (3) of section 56 of the said Act after the words, brackets, and letters "clauses (c) to (f) both inclusive" shall be added the words, brackets and letter "and clause (w)."

(iv) The full stop at the end of sub-section (3) of section 56 of the said Act shall be deleted and the following words shall be added, namely:—

[*Supra*, p. 720.]



## UNITED PROVINCES STEAM BOILERS ACT, 1915.

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UNITED PROVINCES ACT No. III OF 1915.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[5th December, 1914; 8th March, 1915.]

An Act to amend the law providing for the inspection and management of steam boilers and prime movers in the United Provinces of Agra and Oudh, and to enable provision to be made for the inspection and management of internal combustion engines and certain other machinery.

WHEREAS it is expedient to amend the law providing for the inspection and management of steam boilers and prime movers, and to enable provision to be made for the inspection and management of internal combustion engines and certain other machinery; it is hereby enacted as follows:—

Preamble.

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the United Provinces Steam Boilers Act, 1915. Short title and extent.

(2) It extends to the whole of the United Provinces.

2. In this Act, unless there be anything repugnant in the subject or context,—

Definitions.

(1) "boiler" means any vessel used for generating steam under pressure and in this definition "vessel" includes any appurtenance thereto;

<sup>1</sup> For Statement of Objects and Reasons, see *United Provinces Gazette*, 1914, Pt. VII, p. 504; and for Proceedings in Council, see *ibid.*, 1913, Pt. VII, p. 491 and *ibid.*, 1914, Pt. VII, p. 523.

- (2) "owner" includes any person placed for the time being by an owner in independent charge of a boiler and any person using a boiler on loan or hire from the owner;
- (3) "prescribed" means prescribed by this Act or by rule;
- (4) "prime mover" includes any steam engine and a fly wheel, fast driving shaft or pulley when attached to any such engine, and every appurtenance necessary for the safe and efficient working of a prime mover;
- (5) "railway" has the meaning defined in the Indian Railways Act, 1890,<sup>1</sup> section 3, sub-section (4); IX of 1890.
- (6) "rule" means rule made under this Act;
- (7) "steam-vessel" has the meaning defined in the <sup>2</sup>Inland VI of 1884. Steam-Vessels Act, 1884, section 5, sub-section (2).

## CHAPTER II.

### INSPECTORS.

Appointment  
of Chief  
Inspector.

3. (1) The Local Government may appoint a person to be Chief Inspector for the purpose of exercising the powers and performing the functions conferred upon and assigned to the Chief Inspector by this Act or by any rule made under this Act

(2) In default of such appointment, the Inspector of Factories appointed for the United Provinces under the Indian Factories Act, XII of 1911, 1911,<sup>3</sup> shall be such Chief Inspector.

Powers of  
Chief  
Inspector.

4. In addition to the powers and functions conferred upon and assigned to the Chief Inspector by this Act or by rule, the Chief Inspector may exercise all or any of the powers and perform all or any of the functions so conferred upon or assigned to any Inspector, and, except where there is anything repugnant in the subject or context, the expressions "an Inspector" and "the Inspector" when used in this Act or in rules made under this Act shall include the Chief Inspector exercising the powers or performing the functions of an Inspector.

Appointment  
of Inspectors.

5. The Local Government may appoint persons to be Inspectors for the purpose of exercising the powers and performing the functions conferred upon and assigned to an Inspector by this Act or by any rule made under this Act.

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> See now the Inland Steam Vessels Act, 1917 (1 of 1917), Genl. Acts, Vol. VIII.

<sup>3</sup> Genl. Acts, Vol. VII.

6. (1) Where any power is conferred upon or function assigned to an Inspector by this Act or by rule, the exercise of such power and performance of such function by an Inspector in any local area shall be subject to the previous authorization, express or implied, of the Chief Inspector.

Local  
jurisdiction  
of Inspectors.

(2) The expression "the Inspector," when hereinafter used with reference to any such power or function, means an Inspector authorized under sub-section (1) to exercise such power or perform such function in the local area in question.

7. Subject to any rule made in this behalf, an Inspector may—

- (a) at any time and without notice enter into any place or building where he has reason to believe that a boiler is used;
- (b) make such examination of any boiler as he may deem necessary for carrying out the provisions of this Act;
- (c) where the continued use or working of a boiler appears to him to be dangerous to any person or property, require, by order in writing stating his reasons, the immediate discontinuance of such use or working; and
- (d) exercise such other powers as may be necessary for carrying out the purposes of this Act:

General  
powers of  
Inspectors.

Provided that if the discontinuance of the use or working of a licensed boiler is required merely for the purpose of examining the same, three hours' notice shall be given to the owner.

8. (1) Whenever the Inspector becomes aware of the commission of an offence punishable—

Duties of  
Inspectors in  
respect of  
offences.

- (a) under section 34 or section 35, or
- (b) under section 36,

he shall report the matter in either case to the Chief Inspector and in the former case, also to the Collector of the district in which the boiler is situated.

(2) The Chief Inspector upon receiving a report under sub-section (1) or becoming aware in any other way of the commission of any offence under this Act may, with the sanction of the Collector, institute a prosecution, or may take such other action by way of warning or otherwise, as he may deem sufficient.

9. (1) The Chief Inspector or an Inspector shall not—

- (a) undertake any professional work unconnected with his duties;
- (b) receive or accept any remuneration for any professional work from any person other than Government; or
- (c) receive any fees or money payable under this Act or under any rule otherwise than in the form of a treasury receipt.

Prohibition  
of acceptance  
by Inspectors  
of private  
work.

## CHAPTER III.

## LICENSING OF BOILERS.

Prohibition  
of use of  
boiler with-  
out licence.

**10.** A boiler shall not be used unless a licence authorizing its use has been granted under this Act and is in force.

Application  
for licence.

**11. (1)** Any owner of a boiler wishing to obtain or renew a licence authorizing its use may apply in writing to the Chief Inspector of Boilers, Cawnpore.

(2) On receipt of an application under sub-section (1) together with a treasury receipt for the prescribed fee, the Chief Inspector shall enter or cause to be entered the boiler against its owner's name in a register of boilers and shall allot to it a number (to be called the registry number of the boiler) corresponding to the number of the entry concerning it in the register.

(3) The Inspector shall thereafter, in communication with the owner, appoint a date within thirty days from the day on which the application is received and a time for the inspection of the boiler.

(4) On the date so appointed the Inspector shall carefully examine the boiler, and the owner or person in charge thereof shall afford all reasonable facilities for the examination and all such information regarding the boiler as may reasonably be required.

Granting of  
licence.

**12.** When the Inspector is satisfied—

(a) that the boiler is in safe working condition, and

(b) that the registry number has been permanently cut on the boiler so as to be plainly visible,

he shall sign and give the owner a written licence in the Form A set forth in the Schedule to this Act, or in such other form as may be prescribed by rule.

Refusal of  
licence.

**13. (1)** If the Inspector is not so satisfied he shall refuse to grant a licence and shall, within forty-eight hours of the conclusion of the examination of the boiler, give the owner a copy of his order of refusal.

(2) Such order shall specify the reasons for the refusal of the licence, and, in the case of the licence being refused on the ground that the boiler is not in safe working condition, shall specify the alterations or additions, if any, whereby the defect may be remedied.

Period and  
conditions of  
licence.

**14.** Every licence granted under this Act shall state the period for which it is to continue in force, and shall except so far as anything to

the contrary may be prescribed by rule, impose or be deemed to impose the following conditions, namely,—

- (a) that no structural alteration or renewal shall be made to the boiler otherwise than in accordance with the provisions of this Act;
- (b) that the licence shall cease to be in force on the happening of any such accident as is described in section 28 unless and until the licence is endorsed by the Inspector with an entry of the accident and of his sanction to the re-use of the boiler;
- (c) that the boiler shall not be used otherwise than in charge of an engineer or engine-driver holding a certificate granted under this Act entitling him to be in charge of the same;
- (d) that the boiler shall not be used at a pressure greater than the pressure entered as the maximum pressure in the licence or used with the safety valve set to a pressure exceeding such pressure; and
- (e) that the boiler shall not be used otherwise than in a condition which the owner in the exercise of due care and attention believes to be compatible with safe working.

15. (1) The Chief Inspector may revoke or suspend any licence granted under this Act in respect of any boiler when he has reason to believe— Revocation  
or suspension  
of licence.

- (a) that the licence has been fraudulently obtained or granted by mistake or without sufficient examination, or
- (b) that the boiler has been used in contravention of any of the conditions imposed or deemed to be imposed by the licence, or
- (c) that the owner has refused or omitted to make within the prescribed time an alteration or addition required by the Inspector, under section 16, or
- (d) that the owner has been convicted of an offence under this Act.

(2) When a licence has been revoked or suspended, the owner shall, if so required by the Chief Inspector, return the licence within forty-eight hours of receipt of the requisition to the Chief Inspector of Boilers, Cawnpore.

16. If, on making an examination under section 7 of a licensed boiler, the Inspector is of the opinion that a licensed boiler requires any alteration or addition in order to insure its safe working he shall serve on the owner within forty-eight hours of the conclusion of the examination a written notice specifying the alteration or addition which, in his opinion, is required for the safe working of the boiler, his reasons for requiring the Power to  
order altera-  
tions and  
additions.

same and the date before which the alteration or addition shall be made. The owner shall thereupon make or cause to be made the required alteration or addition within the prescribed time and shall report to the Inspector the completion thereof:

Provided that the owner may, instead of making or causing to be made the required alteration or addition, surrender the licence of the boiler; in which case the licence shall cease to be in force and shall be returned within forty-eight hours to the Chief Inspector of Boilers, Cawnpore.

Production  
of licence.

17. The owner of a boiler in respect of which a licence has been granted under this Act shall produce or cause to be produced the licence whenever so required—

- (a) by the Inspector, or
- (b) by a Magistrate having jurisdiction in the place in which the boiler is situated, or
- (c) by any person authorized in writing in this behalf by such Magistrate.

## CHAPTER IV.

### CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

Board of  
Examiners.

18. There shall be a Board of Examiners appointed by the Local Government, which shall sit at Cawnpore, for the purpose of granting certificates of competency to engineers and engine drivers.

Kinds and  
grades of cer-  
tificate.

19. Except as otherwise provided by rule, such certificates shall be of two kinds, namely, certificates after examination, and certificates without examination, and of the following four grades, namely,—

- (i) a certificate as engine-driver of the second class;
- (ii) a certificate as engine-driver of the first class;
- (iii) a certificate as engineer of the second class; and
- (iv) a certificate as engineer of the first class.

Privileges  
conferred by  
each grade  
of certificate.

20. Subject to any rule made in this behalf,

- (a) a person holding a certificate as engine-driver of the second class shall be entitled to have charge of any one boiler of not more than 20 horse-power;
- (b) a person holding a certificate as engine-driver of the first class shall be entitled to have charge of any boiler of not more than 40 horse-power or of any two or more boilers belonging to the same owner and situate within a radius of 500 feet, provided that the aggregate horse-power of such two or more boilers does not exceed 40;



- (c) a person holding a certificate as engineer of the second class shall be entitled to have charge of any boiler of not more than 80 horse-power or of any two or more boilers belonging to the same owner and situate within a radius of 500 feet, provided that the aggregate horse-power of such two or more boilers does not exceed 80, and
- (d) a person holding a certificate as engineer of the first class may have charge of any boiler or of any two or more boilers belonging to the same owner; provided that where he is in charge of two or more boilers, of which any one is outside the said radius of 500 feet, such outside boiler is under the direct charge of a certificated engine-driver, of either the first or second class, or engineer of the second class.

21. Application to be granted a certificate without examination or to be examined for a certificate shall be made to the Board of Examiners, Application for certificates. Cawnpore, and shall be accompanied by the prescribed fee.

22. Certificates under this Chapter shall be in the form B set forth Form of certificates. in the Schedule to this Act or in such other form as may be prescribed by rule.

23. (1) Any certificate granted under this Chapter may be revoked Revocation and suspension of certificates. by the Board of Examiners on the ground that it was obtained by fraud, or granted by mistake, and may be revoked or suspended on the ground of the grave misconduct of the holder or other cause rendering it inadvisable that the holder should retain the certificate.

(2) Any certificate so revoked or suspended shall be returned by the holder to the Board of Examiners, Cawnpore, within one week from the date when he is informed that it has been revoked or suspended.

24. An appeal shall lie to the Local Government from any order of the Board of Examiners refusing the grant of a certificate or revoking or suspending a certificate. Appeals against revocation or suspension of certificates.

25. An engineer or engine-driver holding a certificate under this Chapter and in charge of a boiler shall produce or cause to be produced his certificate whenever so required— Production of certificates.

- (a) by the Inspector,
- (b) by a Magistrate having jurisdiction in the place where the boiler is situated, or
- (c) by any person authorized in writing in this behalf by such Magistrate.

## CHAPTER V.

## ALTERATIONS AND ACCIDENTS.

Notice of  
intention to  
make struc-  
tural altera-  
tion in boiler.

26. (1) If at any time during the period for which a licence is in force it is desired to make any structural alteration or renewal in the boiler, notice in writing shall be given to the Chief Inspector of Boilers, Cawnpore, of the proposed alteration or renewal, and thereupon the Chief Inspector, after such examination, if any, by the Inspector as he may think necessary, shall, by order in writing, sanction or prohibit the alteration or renewal.

(2) An order of sanction may either be absolute or may impose such conditions as the Chief Inspector may consider necessary.

(3) An order of prohibition shall specify the reasons for the prohibition.

Explanation.—The substitution for a part or fitting of a duplicate or of another part or fitting not inferior in strength, efficiency or any other respect to the replaced part or fitting shall not be deemed a structural alteration or renewal within the meaning of this section.

Consequence  
of disregard  
of notice.

27. If the Chief Inspector neglects or omits for ten days after the receipt of the notice required by section 26 to communicate to the person who has given such notice any order in respect thereof he shall be deemed to have sanctioned the proposed alteration or renewal unconditionally.

Report of  
accidents.

28. (1) When any accident occurs to a boiler—

- (a) causing injury thereto whereby the boiler is prevented from being worked at its maximum pressure within the forty-eight hours next after the occurrence of the accident, or
- (b) causing death, or injury to any person whereby such person is prevented from returning to his work within the said period of forty-eight hours,

a report in writing shall be made to the Chief Inspector within seventy-two hours of the occurrence of such accident.

(2) Every such report shall contain a true description of the nature of the accident and of the injury thereby caused sufficient to enable the Chief Inspector to judge of the gravity of the accident.

(3) Every person shall be bound to answer truly, to the best of his knowledge and ability, every question put to him in writing by the Chief Inspector as to the cause, nature, and extent of the accident:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself

## CHAPTER VI.

## APPEALS.

29. Any person considering himself aggrieved by—

- (a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by this Act or by any rule made under this Act, or
- (b) a refusal of an Inspector to pass an order which he is required or entitled by this Act or by any rule made under this Act to make,

Appeal from order of Inspector to Chief Inspector.

may within thirty days or from the date when such order is served upon him or such refusal is communicated to him or occurs, appeal against such order or refusal to the Chief Inspector.

*Explanation.*—The omission by an Inspector to pass an order within fifteen days on an application duly made shall, except where otherwise provided in this Act or in the rules, be deemed to be a refusal within the meaning of this section.

30. (1) If an appellant from an order of an Inspector desires that the Chief Inspector shall personally inspect any boiler, he shall, along with his memorandum of appeal, send a treasury receipt for the fee prescribed for such inspection and for travelling expenses according to the prescribed scale.

Inspection of boiler by Chief Inspector when deciding appeal.

(2) If, for reasons to be stated in his appellate order, the Chief Inspector considers a personal inspection of the boiler unnecessary, he shall return the treasury receipt to the appellant for the purpose of his obtaining a refund.

31. A person in like manner considering himself aggrieved by an order or refusal of the Chief Inspector may, within the said period, appeal against such order or refusal to the Sanitary Engineer, Allahabad, or other officer appointed in this behalf by the Local Government.

Appeal from order of Chief Inspector to Sanitary Engineer or other authority.

32. (1) The appellate authority prescribed by section 31 shall, when other than the Sanitary Engineer, be deemed to be a public servant within the meaning of the Indian Penal Code, and may, in any case, if he thinks fit, summon to his assistance two assessors to aid him in hearing the appeals, and those assessors shall be bound to attend and assist in such manner and on condition of their receiving such remuneration as the Local Government may by rule direct.

Powers of Sanitary Engineer or other appellate authority.

XLV of 1860.

(2) The appellate authority may confirm, modify or reverse any order of the Chief Inspector or an Inspector made or purporting to be made under this Act, either unconditionally or subject to the payment of any prescribed fee or to any other condition that he may deem necessary, or may himself pass any order that the Chief Inspector or the Inspector could have passed, or make an order requiring any act to be done or forbore by the Chief Inspector or the Inspector.

(3) If the order of the Chief Inspector is confirmed and the appeal dismissed, the appellate authority may award costs in favour of Government not exceeding one hundred rupees, and such costs shall, on production of a certificate signed by him recording the amount so awarded, be recoverable from the appellant as if it were an arrear of land revenue.

Finality of orders.

33. (1) Except as provided in this Chapter, an order made by the Chief Inspector or by an Inspector under this Act shall not be called in question.

(2) An order of an appellate authority under section 32 shall be final and shall not be called in question in any Court.

## CHAPTER VII.

### PENALTIES AND PROCEDURE.

Penalty for using boiler without or in contravention of licence.

34. If any boiler is used—

- (a) without a licence duly obtained under this Act and in force in respect thereof, or
- (b) in contravention of any of the conditions subject to which a licence authorizing its use has been granted,

the owner shall be punishable with fine which may extend to five hundred rupees.

Penalty for removing or fraudulently marking registry number on boiler.

35. Any person who—

- (a) intentionally removes, alters, defaces, renders invisible or otherwise tampers with the registry number marked on a boiler under section 12, or
- (b) marks upon a boiler a number which has not been duly awarded to it under this Act with the object of such number being mistaken for a registry number so awarded,

shall be punishable with fine which may extend to five hundred rupees.

Penalty for certain offences.

36. Any person who—

- (a) wilfully obstructs an Inspector in the exercise of any power conferred by this Act, or by any rule made under this Act,
- or

(b) does or omits to do any act prohibited or prescribed by this Act or by rule made under this Act or by any order of an Inspector or of an appellate authority under any provision of this Act, and not otherwise punishable under this Act,

shall be punishable with fine which may extend to one hundred rupees:

Provided that in cases where an appeal is allowed by Chapter VI against any order no prosecution shall be instituted until the time prescribed for the presentation of an appeal has expired or such appeal, if made, has been determined.

**37.** (1) Where the owner of a boiler is charged with an offence under this Act, he shall be entitled upon complaint to the Court made before the date fixed for hearing the charge to have any other person whom he charges as the actual offender brought before the Court on such date; and if, after the commission of the offence has been proved, the owner proves to the satisfaction of the Court—

*Exemption of owner from liability in certain cases.*

(a) that he has used due diligence to enforce the execution of the Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, and the owner shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the owner has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the owner, or in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the owner, and such person shall be liable to punishment as if he were the owner.

**38.** A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

*Limit to penalty in case of repetition of an offence.*

(a) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(b) where the offence is an offence under section 34 of this Act.

*Sanction to prosecution and cognizance of offences.*

**39.** (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Magistrate of the District in which such offence is alleged to have been committed.

(2) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act.

Limitation to  
complaint.

**40.** No Court shall take cognizance of any offence against this Act unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that, where the offence is disobedience to any order, the date from which the six months shall be computed shall be—

(a) if no appeal against the order is preferred, the date of expiry of the period of limitation, and

(b) if an appeal is preferred, the date when it is finally decided:

Provided also that a complaint made by an owner against another person under section 37, sub-section (1), in the course of proceedings against himself shall for the purposes of this section be deemed to have been made on the date of the complaint against the owner.

## CHAPTER VIII.

### RULES.

Power to  
make rules.

**41.** The Local Government may make rules consistent with this Act to provide for all or any of the following matters, namely,—

- (a) the exemption of boilers of any particular class or description from any provision of this Act or of rules made under this section or the modification of any such provision in its application to such boilers;
- (b) the conditions which a boiler licence shall impose or be deemed to impose;
- (c) the fees payable and travelling expenses under this Act;
- (d) the form of any licence, application, certificate, notice or return to be given or furnished under this Act;
- (e) the formulæ for or methods of calculating the maximum pressure and the horse-power of a boiler with reference to sections 14 and 20;
- (f) the powers of Inspectors and the manner in which such powers may be exercised;
- (g) the method of appointing the members of the Board of Examiners, and the duties, emoluments, and qualifications of such members;
- (h) the number of examinations to be held annually by the Board of Examiners and the times at, or periods within which, they shall be held.

- (i) the kinds and grades of certificates that may be issued by the Board of Examiners and the privileges to which each grade of certificate shall entitle the holder;
- (j) the conditions and syllabus of any examination held under this Act;
- (k) the qualifications required of an applicant for admission to an examination for a certificate or for the grant of a certificate without examination under section 21;
- (l) with reference to section 32, the manner of summoning and the remuneration to be paid to assessors;
- (m) generally for the carrying out of the provisions or purposes of this Act.

42. The power to make rules conferred by section 41 except clause (d) is subject to the condition of the rules being made after previous publication. Prior publication of rules.

43. Rules made under this Chapter shall be published in the local official Gazette and shall thereupon have effect as if enacted in this Act. Commencement of rules.

## CHAPTER IX.

### SUPPLEMENTAL PROVISIONS.

44. If an owner wishes to have his boiler inspected for purposes of sale or insurance or for any other purpose which, in the opinion of the Chief Inspector, may justify an inspection under this section, the Chief Inspector on receipt of a written request, together with a treasury receipt for the prescribed fee, may inspect or cause to be inspected the boiler and may issue a certificate in such form as may appear to him to suit the requirements of the case. Certificates for private purposes.

45. Nothing in this Act shall apply to—

Savings.

- (a) any boiler used on board a steam-vessel or used upon or appertaining to a railway,
- (b) any boiler used exclusively for domestic purposes at atmospheric pressure, or
- (c) any boiler or class or description of boilers which the Local Government may by notification specify in this behalf.

46. The Local Government may exempt for such period, not exceeding one year, as it thinks fit any boiler from any provision of this Act or of the rules made under this Act. Temporary exemption.

47. No suit, prosecution or other legal proceeding shall lie against any person for anything which in good faith is done or intended to be done under this Act. Protection to persons acting under the Act.

Application  
of Act and  
rules to  
machinery  
other than  
boilers.

**48.** The Local Government may, by notification in the Gazette, extend to—

- (a) prime-movers,
- (b) internal combustion engines,
- (c) cylinders of vessels used for containing but not for generating steam, or
- (d) any class or description of such machinery. the whole or any part or provision of this Act or of the rules made under this Act and may declare the extension to be subject to such restrictions and modifications as it thinks fit.

Repeal.

**49.** The United Provinces Steam Boilers and Prime Movers Act, 1899, is hereby repealed.

### SCHEDULE.

#### Form A.

(SEE SECTION 12 OF U. P. STEAM BOILERS ACT, 1915.)

#### Boiler licence.

Date.	Registry number.	Description.	Where and when made.	Where and when last repaired.	Horse-power.	Maximum pressure allowed.	Period to be in force.	REMARKS.
1	2	3	4	5	6	7	8	9

#### CONDITIONS.

(a) No structural alteration or renewal shall be made to the boiler otherwise than in accordance with the provisions of the said Act.

(b) This licence shall cease to be in force on the happening of any such accident as is described in section 28 of the said Act unless and until the licence is endorsed by the Inspector with an entry of the accident and of his sanction to the re-use of the boiler.



(c) Subject to any exception made by rule in this behalf, the boiler shall not be used otherwise than in charge of an engineer or engine-driver holding a certificate granted under the said Act entitling him to be in charge of the same.

(d) The boiler shall not be used at a pressure greater than the pressure entered as the maximum pressure in the licence or used with the safety valve set to a pressure exceeding such pressure.

(e) The boiler shall not be used otherwise than in a condition which the owner in the exercise of due care and attention believes to be compatible with safe working.

#### CERTIFICATE.

I, the undersigned, certify that I have examined the boiler described above, and that, to the best of my judgment, it can be safely worked under this licence.

A. B.,  
*Inspector.*

#### Form B.

(SEE SECTION 22 OF U. P. STEAM BOILERS ACT, 1915.)

Certificate of competency (granted  $\frac{\text{after}}{\text{without}}$  examination as an  $\frac{\text{engineer}}{\text{engine-driver}}$  of the  $\frac{\text{first}}{\text{second}}$  class.

This is to certify that A. B., of personal description set forth below, at present residing at \_\_\_\_\_, having satisfied the Board of Examiners appointed under the said Act,  $\frac{\text{after}}{\text{without}}$  examination, of his competency to be an  $\frac{\text{engineer}}{\text{engine-driver}}$  of the  $\frac{\text{first}}{\text{second}}$  class that is to say to\* is hereby granted this certificate subject to all the conditions imposed by the said Act or by rules made thereunder.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Signed

{ .....  
.....  
.....  
.....  
.....

Members of the Board of Examiners.

\* NOTE.—Here enter the words of the appropriate clause of section 20 of the Act following the words "Entitled to."

*Personal description of the grantee.*

Height without shoes.— feet inches.

Approximate date of birth.

Marks.—

Thumb-impression†.—

Signature.

† NOTE.—To be impressed in the case of engine-drivers.

UNITED PROVINCES ACT No. IV OF 1915.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[21st August, 1915; 13th September, 1915.]

## An Act to amend the Bundelkhand Alienation of Land Act, 1903.

WHEREAS it is expedient to extend to certain other parts of the United Provinces the operation of, and to amend, the provisions of the <sup>2</sup>Bundelkhand Alienation of Land Act, 1903 (hereinafter called the said Act); U. P. Act II of 1903.  
It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bundelkhand Alienation of Land (Amendment) Act, 1915.

Amendment of preamble to Bundelkhand Alienation of Land Act, 1903.

2. In the preamble to the <sup>2</sup>Bundelkhand Alienation of Land Act, U. P. Act II of 1903, for the words “in that part of the United Provinces known as Bundelkhand” shall be substituted “in Bundelkhand and certain other parts of the United Provinces.”

Amendment of section 1 (2) of Bundelkhand Alienation of Land Act, 1903.

3. In section 1 of the said Act the following shall be substituted for sub-section (2), namely:—

[*Supra*, p. 673.]

Amendment of section 2 of Bundelkhand Alienation of Land Act, 1903.

4. (1) In section 2, definition (2), of the said Act the word “and” immediately preceding clause (e) shall be omitted.

(2) To section 2, definition (2), of the said Act there shall be added the following as clauses (f) and (g), namely:—

[*Supra*, p. 673.]

(3) The following definition (7) shall be added in section 2 of the said Act:—

[*Supra*, p. 674.]

Amendment of section 3 (1) (b) of Bundelkhand Alienation of Land Act, 1903.

5. For clause (b) of sub-section (1) of section 3 of the said Act shall be substituted the following, namely:—

[*Supra*, p. 674.]

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1915; Pt. VII, p. 17 and for Proceedings in Council, see *ibid*, 1915, Pt. VII, pp. 40 and 523.

<sup>2</sup> *Supra*.

6. From section 4 of the said Act the words “published with the previous sanction of the Governor General in Council,” shall be omitted.

Amendment of section 4 of Bundelkhand Alienation of Land Act, 1903.

7. (1) In section 6 of the said Act for the words “or the mortgagor and mortgagee are not members of agricultural tribes and both residents of” shall be substituted the words “or a member of an agricultural tribe and a resident of.”

Amendment of section 6 of Bundelkhand Alienation of Land Act, 1903.

(2) In section 11 of the said Act for the word “and the lessor and lessee are not members of agricultural tribes and both residents of” shall be substituted “or a member of an agricultural tribe and a resident of.”

Amendment of section 11 of Bundelkhand Alienation of Land Act, 1903.

8. The following section shall be added as section 16A immediately after section 16 of the said Act:—

Insertion of new section 16A in Bundelkhand Alienation of Land Act, 1903.

[*Supra*, p. 679.]

9. After section 17 of the said Act the following section shall be inserted namely:—

Insertion of new section 17A in Bundelkhand Alienation of Land Act, 1903.

[*Supra*, p. 679.]

10. For section 23 of the said Act, the following section shall be substituted, namely:—

Substitution of new section 23 of Bundelkhand Alienation of Land Act, 1903.

[*Supra*, p. 680.]

## UNITED PROVINCES ACT No. V OF 1915.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[21st August, 1915; 13th September, 1915.]

### An Act to Amend the Bundelkhand Encumbered Estates Act, 1903.

U. P. Act I  
of 1903.

WHEREAS it is expedient to amend and extend the application of the <sup>2</sup>Bundelkhand Encumbered Estates Act, 1903 (hereinafter called the said Act); It is hereby enacted as follows:—

1. This Act shall be called the Bundelkhand Encumbered Estates Short title. (Amendment) Act, 1915.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1915; Pt. VII, p. 14 and for Proceedings in Council, see *ibid*, 1915, Pt. VII, pp. 39 and 523.

<sup>2</sup> *Supra*.

Amendment  
of preamble  
to Bundel-  
khand En-  
cumbered  
Estates  
Act, 1903.

2. In the preamble to the <sup>1</sup>Bundelkhand Encumbered Estates Act, U. P. Act I of 1903, 1903, for the words "in that part of the United Provinces known as Bundelkhand" the words "in Bundelkhand and certain other parts of the United Provinces" shall be substituted.

Amendment  
of section 1  
(2) of Bundel-  
khand En-  
cumbered  
Estates Act,  
1903.

3. In section 1 of the said Act, the following shall be substituted for sub-section (2,) namely:—

[*Supra*, p. 656.]

Insertion of  
a new sec-  
tion 2A in  
Bundelkhand  
Encumbered  
Estates  
Act, 1903.

4. The following section shall be added as section 2A immediately after section 2 of the said Act:—

[*Supra*, p. 657.]

Amendment  
of section  
5 of Bundel-  
khand En-  
cumbered  
Estates Act,  
1903.

5. In section 5 of the said Act, between the word "exercised" and the words "by any officer" the words "in respect of any specified area" shall be inserted, and the word "Allahabad," wherever it occurs shall be omitted.

Amendment  
of section 6  
of Bundel-  
khand En-  
cumbered  
Estates Act,  
1903.

6. In section 6 of the said Act, the word "Allahabad" shall be omitted.

## UNITED PROVINCES ACT No. VI OF 1915.<sup>2</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[25th October, 1915; 27th November, 1915.]

An Act to define the law relating to land revenue, agricultural tenancies and certain other matters in the Pargana of Kaswar Raja in the district of Benares.

WHEREAS it is expedient to define the law relating to land revenue, agricultural tenancies, and certain other matters in the Pargana of Kaswar Raja in the district of Benares; and to render applicable thereto, so far as is consistent with such definition, the provisions of the United Provinces Land-Revenue Act, 1901,<sup>1</sup> and of the Agra Tenancy Act, 1901;<sup>1</sup> It is hereby enacted as follows:—

U. P. Act III  
of 1901.  
U. P. Act II  
of 1901.

Title, extent,  
and com-  
mencement.

1. (I) This Act may be called the Pargana of Kaswar Raja Act, 1915.

<sup>1</sup> *Supra*.

<sup>2</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1915; Pt. VII, p. 482; for Report of the Select Committee, see *ibid*, 1915, Pt. VII, p. 545; and for Proceedings in Council, see *ibid*, 1915, Pt. VII, pp. 520 and 581.

(2) With the exception of sections 2 and 3, it extends only to the Pargana of Kaswar Raja in the district of Benares.

Repeal.

2. The enactments specified in the Schedule are repealed to the extent mentioned in the third column thereof.

U. P. Act III  
of 1901.  
U. P. Act II  
of 1901.

3. In sub section (2) of section 1 of the <sup>1</sup>United Provinces Land-Revenue Act, 1901, and of the <sup>1</sup>Agra Tenancy Act, 1901, for the words "but, subject to the provisions of Bengal Regulation VII of 1828" shall be substituted the words "Provided that" and after the words "areas so excepted;" the following proviso shall be inserted, namely:—

Amendment  
of the United  
Provinces  
Land Reve-  
nue Act, 1901  
and the Agra  
Tenancy Act,  
1901.

[*Supra*, pp. 523 and 597.]

4. In this Act, unless there be something repugnant in the subject or context,—

Definitions

U. P. Act I  
of 1911.

- (1) "record-of-rights" means the record-of-rights prepared under the provisions of sub-section (1) of section 10 of the Pargana of Kaswar Raja Act, 1911<sup>1</sup>:
- (2) "*sir*" means land recorded as "*sir*" in the record-of-rights and continuously so recorded in the annual registers (unless the record in such registers is proved incorrect) or which but for error or omission would have been so continuously recorded:

Provided that land which is "*sir*" shall cease to be "*sir*" when it becomes the subject of an ex-proprietary tenancy:

Provided also that if an ex-proprietary tenant regains his proprietary or under-proprietary right in the land held by him as an ex-proprietary tenant the land mentioned in the first proviso shall again become his "*sir*."

- (3) "under-proprietor" means a person possessing, as against the proprietor, a heritable and transferable right in land, but does not include a fixed-rate tenant or a pre-settlement occupancy tenant:
- (4) "A fixed-rate tenant" means a tenant who has been recorded as a fixed-rate tenant in the record-of-rights, or has been held by a decision in judicial proceedings instituted before, or within three years after, the commencement of this Act to have had previous to the 16th November, 1911, such rights as would have entitled him except for error or omission to be so recorded; and includes the successor in interest of such tenant:
- (5) "A pre-settlement occupancy tenant" means a tenant who has been recorded as an occupancy tenant in the record-of-rights, or has been held by a decision in judicial proceedings

<sup>1</sup> *Supra*.

instituted before, or within three years after, the commencement of this Act to have had previous to the 16th November, 1911, such rights as would have entitled him except for error or omission to be so recorded, and includes the successor in interest of such tenant.

Ex-proprietary tenants.

5. (1) Every under-proprietor whose under-proprietary rights in a mahal or in any portion thereof, whether in any share therein or in any specific area thereof are transferred after this Act has come into force in any way otherwise than by gift or by exchange between co-sharers in the mahal, shall become a tenant with a right of occupancy in his *sir* land and in the land which he has cultivated continuously for twelve years at the date of the transfer, and shall be entitled to hold the same at a rate of rent which shall be four annas in the rupee less than the rate generally payable by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

(2) A usufructuary mortgage shall be deemed to be a transfer within the meaning of this section.

(3) If a part only of an under-proprietor's rights in a mahal or any portion thereof is so transferred, such under-proprietor shall become a tenant with a right of occupancy in so much of his *sir* land, and in the land which he has cultivated continuously for twelve years at the date of the transfer, as appertains or corresponds to such part of his share.

(4) Every such tenant shall be called an ex-proprietary tenant, and shall, so far as is consistent with the provisions of this Act, be subject to all the provisions of the <sup>1</sup>Agra Tenancy Act, 1901, applicable to an ex-proprietary tenant as defined in that Act. U. P. Act II of 1901.

(5) The land in which such ex-proprietary right has been created shall be specified and the rent payable shall be fixed by the Collector in the manner provided by section 36 of the United Provinces Land-Revenue Act, 1901.<sup>1</sup> U. P. Act III of 1901.

(6) Nothing in this section shall confer a right of occupancy in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

Status of fixed-rate tenants.

6. Every fixed-rate tenant shall, so far as is consistent with the provisions of this Act, be subject to all the provisions of the Agra Tenancy Act, 1901,<sup>1</sup> applicable to a fixed-rate tenant as defined in that Act.

U. P. Act II of 1901.

Status of pre-settlement occupancy tenants.

7. A pre-settlement occupancy tenant shall have the same rights and be subject to the same liabilities as a fixed-rate tenant save and except that his rent shall be liable to enhancement and abatement in the same manner, and subject to the same conditions, as the rent of an occupancy tenant under the provisions of the Agra Tenancy Act, 1901.<sup>1</sup>

U. P. Act II of 1901.

U. P. Act II  
of 1901.

8. The provisions of section 57, clauses (a), (c), and (d) of the Agra Tenancy Act, 1901,<sup>1</sup> shall not be applicable to fixed-rate tenants or pre-settlement occupancy tenants.

Fixed-rate tenants and pre-settlement occupancy tenants not liable to ejectment on certain grounds.

9. When a decree has been obtained against a fixed-rate tenant or pre-settlement occupancy tenant for arrears of rent in respect of a holding, the rights of the said tenant in such holding may be sold in execution of the decree. Such sale shall be made free of all encumbrances, and the amount due under the decree shall be first satisfied out of the proceeds of the sale.

Sale of holding of fixed-rate tenant or pre-settlement occupancy tenant for arrears of rent.

10. (1) If the holding of a fixed-rate tenant or of a pre-settlement occupancy tenant sold under the provisions of section 9 has been purchased by the landholder, and within three months of the date of sale the landholder files in the Court which has effected the sale a certificate of payment or of adjustment in full satisfaction of the decretal debt for arrears, together with an application that the sale be set aside, the sale shall be deemed to be cancelled as from the date when it was effected, and the tenant, if ejected, shall be restored to possession of the holding.

"Wapsi nilam" right of landholder to reinstate tenant whose holding has been sold for arrears of rent.

(2) If before filing such certificate and application the landholder has let the land contained in the holding or any portion thereof to any person, that person shall at his option either be deemed to be the sub-tenant of the holding or portion of the holding as from the date of the filing of the said certificate and application, or shall have the right of relinquishing the holding or portion of the holding from such date.

11. A tenant who has been recorded in the record-of-rights as being in possession of a grove shall, on the grove being cut down or disappearing and the land on which the grove stood being brought under cultivation, be deemed to be a pre-settlement occupancy tenant of the said land, unless he is already a fixed-rate tenant thereof.

Grove land recorded in record-of-rights.

12. A tenant who having planted a grove with the consent of the landholder after the completion of the record-of-rights has maintained the said grove for a period exceeding twelve years shall, on the grove being cut down or disappearing and the land on which the grove stood being brought under cultivation, be deemed, in the absence of a written contract to the contrary, to be an occupancy tenant of the said land, unless he is already either a fixed-rate tenant or a pre-settlement occupancy tenant thereof.

Grove land planted subsequent to the preparation of record-of-rights.

13. Should any dispute arise regarding the rent to be paid for land brought under cultivation as described in sections 11 and 12, the rent shall be fixed by an Assistant Collector of the first class, regard being had

Method of deciding rent to be paid for grove lands.]

to the rents paid by pre-settlement occupancy tenants, or occupancy tenants, as the case may be, for land of similar quality and with similar advantages.

An appeal shall lie from the decree of the Assistant Collector to the Commissioner whose decision shall be final.

Rent-free  
grants.

14. The provisions of Chapter X of the Agra Tenancy Act, 1901,<sup>1</sup> shall not be applicable to the Pargana of Kaswar Raja in respect of rent-free grants recorded in the record-of-rights, except where land is so recorded as held rent-free for service or in lieu of wages. U. P. Act II of 1901.

Maintenance  
of registers.

15. (1) The Collector shall annually, or at such longer intervals as the Board may prescribe, cause to be prepared an amended set of the registers prepared under section 10 of the Pargana of Kaswar Raja Act, 1911.<sup>1</sup> The registers so prepared shall be called the annual registers. U. P. Act I of 1911.

(2) The Collector shall cause to be recorded in the annual registers all changes that may take place and any transaction that may affect any of the rights or interest recorded, and shall therein correct any errors proved to have been made in any annual register previously prepared.

(3) All entries in the annual registers and all changes in such entries shall be made and all disputes relative to such entries shall be decided subject to the provisions of this Act.

Recovery of  
arrears from  
under-pro-  
prietor

16. When a mahal or a portion of a mahal is held by an under-proprietor and the amount payable by him to the proprietor in respect of the mahal or portion of a mahal falls into arrear, the proprietor may—

(a) sue the under-proprietor for such arrear as if it were an arrear of rent due from a tenant, or

(b) within one year from the accrual of such arrear apply in writing to the Collector to realize the arrear in the manner provided in the following section :

Provided that nothing in clause (a) shall be construed to render the under-proprietor liable to ejectment on the ground specified in clause (a) of section 57 of the Agra Tenancy Act, 1901.<sup>1</sup>

Procedure of  
Collector  
upon appli-  
cation under  
section 16.

17. (1) On receipt of an application under clause (b) of the preceding section, the Collector shall after satisfying himself that the amount claimed is due, proceed, subject to rules made under section 234 of the United Provinces Land-Revenue Act, 1901,<sup>1</sup> to recover such arrear with costs but without interest as an arrear of revenue. U. P. Act II of 1901. U. P. Act III of 1901.

(2) When a mahal or portion of a mahal held by an under-proprietor is attached, transferred, held under direct management or farmed on account of an arrear due from such under-proprietor, the Collector shall fix the rent to be paid by such under-proprietor on account of the land which, if his under-proprietary rights were transferred, he would be entitled to hold as an ex-proprietary tenant in accordance with the provisions of section 5.



18. When any land sold in execution of a decree obtained under clause (a) of section 16 or by the Collector under section 17 is a portion of a mahal, any recorded co-sharer in the mahal, other than the person whose land has been sold may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid :

Provided that the said claim be made on the date of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfils all the other conditions of the sale :

Provided also that when there are more such claimants than one, the court shall decide which claim shall prevail having regard, among other matters, to the nearness of relationship of each claimant to the owner of the portion sold.

## THE SCHEDULE

[See section 2.]

<i>Enactments repealed.</i>		<i>Extent of repeal.</i>
<sup>1</sup> Bengal Regulation XV of 1795.	A regulation for referring certain cases to the decision of the Raja of Benares.	So far as they relate to Pargana Kaswar Raja or Gangapur:
<sup>1</sup> Bengal Regulation VII of 1828.	A regulation for amending the provisions of Bengal Regulation XV of 1795 and for defining the authority of the Raja of Benares in the mahals therein referred to.	
<sup>2</sup> United Provinces Act II of 1901.	The Agra Tenancy Act . . . . .	The third item in the first schedule.
<sup>2</sup> United Provinces Act III of 1901.	The United Provinces Land Revenue Act	

## UNITED PROVINCES ACT No. I OF 1916.<sup>3</sup>

[APPLIES TO THE UNITED PROVINCES.]

[6th March, 1916; 21st April, 1916.]

## An Act to amend the United Provinces Prevention of Adulteration Act, 1912.

U. P. Act VI  
of 1912.

WHEREAS it is expedient to amend the <sup>1</sup>United Provinces Prevention of Adulteration Act, 1912, it is hereby enacted as follows :—

<sup>1</sup> *Supra*, Vol. I.

<sup>2</sup> *Supra*.

<sup>3</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1916, Pt. VII, p. 15; and for Proceedings in Council, see *ibid*, 1916, Pt. VII, p. 51

Short title.

1. This Act may be called the United Provinces Prevention of Adulteration (Amendment) Act, 1916.

Amendment  
of the certifi-  
cate in the  
schedule to  
the United  
Provinces  
Prevention  
of Adultera-  
tion Act,  
1912.

2. In the form of certificate in the Schedule to the United Provinces Prevention of Adulteration Act, 1912,<sup>1</sup> for the words

U. P. Act  
VI of 1912.

“ or

I am of opinion that the said sample contained the parts as under,  
‘ or the percentages of foreign ingredients as under.’”

the words

“ or

I am of opinion that the said sample contained a  $\frac{\text{large}}{\text{small}}$  proportion

of  $\frac{\text{an ingredient}}{\text{ingredients}}$  foreign to pure . . \*

\* (milk, ghi or any particular edible oil, as the case may be)”

shall be substituted.

## THE UNITED PROVINCES MUNICIPALITIES ACT, 1916.

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UNITED PROVINCES ACT No. II of 1916.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[11th May, 1916; 15th June, 1916.]

## An Act to consolidate and amend the law relating to municipalities in the United Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to municipalities in the United Provinces; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

short title,  
extent, and  
commence-  
ment.

1. (1) This Act may be called the United Provinces Municipalities Act, 1916.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the United Provinces; and

(3) It shall come into force on the first day of July, 1916.

definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "Board" means a municipal board and shall include, in any case where a power is expressed as being conferred or a duty as being imposed on a board, a committee appointed by a board and any member, officer or servant of a board authorized or required by or under this Act to exercise the power or perform the duty.

(2) "Building" means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed, and every part thereof, but shall not include a tent, or other such portable and merely temporary shelter.

(3) "Byelaw" means a byelaw made in exercise of a power conferred by this Act.

(4) "City" means a municipality having a population of 100,000 or more inhabitants and any municipality which is a city by virtue of a notification under section 3.

(5) "Compound" means land, whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings.

<sup>1</sup> For Statement of Objects and Reasons, see United Provinces Gazette, 1915, Pt. VII, p. 474; for Report of Select Committee, see *ibid*, 1915, Pt. VII, p. 645; and for Proceedings in Council, see *ibid*, 1915, Pt. VII, p. 503, and *ibid*, 1916, pp. 202 and 409.

The United Provinces Primary Education Act, 1919 (U. P. Act VII of 1919), *infra*, Vol. III, shall be constructed as part of and supplementary to this Act—see s. 1 (8) of the former Act.



(6) "Drain" includes a sewer, pipe, ditch, channel or any other device for carrying off sullage, sewage, and polluted water, or rain-water, or sub-soil water, together with pail depôts, traps, sinks, cisterns, flush, tank, and other fittings appertaining thereto.

(7) "Inhabitant" used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immoveable property therein.

(8) "Lodging-house" includes a collection of buildings, or a building, or part of a building used for the accommodation of pilgrims and travellers.

(9) "Municipality" means any local area which is a municipality by reason of a notification issued under section 3 or, subject to the provisions of the said section, any local area which was a municipality at the time immediately preceding the commencement of this Act.

(10) "Notification" means a notification published in the Gazette.

(11) "Occupier" includes an owner in actual occupation of his own land or building.

(12) "Officer of the board" means a person holding for the time being an office created or continued by or under this Act, but shall not include a member of the board or of a committee as such.

(13) "Owner" includes a person for the time being receiving or entitled to receive the rent, or a part of the rent, of any land or building, whether on his own account, or as trustee, or as agent for a person or for a religious or charitable purpose, or as receiver appointed by or under the order of a court, or who would so receive the same if the land or building were let to a tenant.

(14) "Part of a building" includes any wall, underground room or passage, verandah, fixed platform, plinth, staircase or door step attached to, or within the compound of, an existing building or constructed on ground which is to be the site or compound of a projected building.

(15) "Petroleum" means petroleum as defined in the Indian Petroleum Act, 1899.

(16) "Population" used with reference to any local area means the population according to the returns of the most recent Government provincial census for the time being.

(17) "Prescribed" means prescribed by or under this or any other enactment.

(18) "Public place" means a space, not being private property, which is open to the use or enjoyment of the public, whether such space is vested in the board or not.

(19) "Public street" means a street—

(a) which is declared a public street by the board under the provisions of section 221, or

(b) which with the consent, express or implied, of the owner of the land comprising the street has been levelled, paved, metalled, channelled, sewered or repaired out of the municipal or other public funds.

(20) "Regulation" means a regulation made in exercise of a power conferred by this Act.

(21) "Rule" means a rule made in exercise of a power conferred by this Act.

(22) "Servant of the board" means any person in the pay and service of the board.

(23) "Street" means any road, bridge, footway, lane, square, court, alley or passage which the public, or any portion of the public, has a right to pass along, and includes, on either side, the drains or gutters and the land up to the defined boundary of any abutting property, notwithstanding the projection over such land of any verandah or other superstructure.

(24) "Vehicle" means a wheeled conveyance capable of being used on a street, and includes a bicycle, tricycle or motor car.

(25) "Water for domestic purposes" shall not include water for cattle, or for horses, or for washing carriages, where the cattle, horses or carriages are kept for sale or hire or by a common carrier, or water for any trade, manufacture or business, or for building purposes or for watering gardens, or for fountains or for any ornamental purpose.

(26) "Waterworks" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, cuts, sluices, mains, pipes, culverts, engines, hydrants, standpipes, conduits, and all machinery, lands, buildings, bridges, and things for supplying or used for supplying water.

(27) Where a power is expressed as being conferred on any authority to require a person to do one thing or to do another thing, the authority may, in its discretion, require the person to do either thing or, if the nature of the case permits, both of the things, or may give the person the option of doing whichever of the things he chooses.

## CHAPTER II.

### CONSTITUTION AND GOVERNMENT OF MUNICIPALITIES.

#### *Declaration of Municipalities.*

3. (1) The Local Government may, by notification,—

(a) declare any local area to be a municipality;

- (b) declare any municipality having a population of less than 100,000 inhabitants to be a city;
- (c) define the limits of any municipality;
- (d) include or exclude any area in or from any municipality; and
- (e) cancel any notification under any of the preceding clauses.

(2) The power to issue a notification under sub-section (1) shall be subject to the condition of the notification being issued after the previous publication required by section 4 and, where the notification—

- (a) is in respect of a local area which comprises or contains the whole or a portion of a cantonment, <sup>1</sup> \* \* \*

with the previous sanction of the Governor General in Council.

4. (1) Not less than two months before the issue of a notification under section 3, the Local Government shall publish in the Gazette <sup>Procedure preliminary to notification.</sup> and cause to be posted up, in the court house of the District Magistrate and in one or more conspicuous places within or adjacent to the local area concerned, a draft both in English and in the vernacular of the proposed notification along with a notice stating that the draft will be taken into consideration on the expiry of two months from the date of publication in the Gazette.

(2) The Local Government shall, before issuing the notification, consider any objection or suggestion in writing which it receives from any person, in respect of the draft, within the said period of two months.

5. When, by reason of a notification under section 3, any local area is included in a municipality, such area shall thereby become subject to all notifications, rules, regulations, byelaws, orders, directions, issued or made under this or any other enactment and in force throughout the municipality at the time immediately preceding the inclusion of the area. <sup>Effect of including area in a municipality.</sup>

### *The Municipal Board.*

6. In every municipality there shall be a municipal board, and every such board shall be a body corporate by the name of the municipal board of the place by reference to which the municipality is known, having perpetual succession and a common seal, and, subject to any restriction or qualification imposed by this or any other enactment, vested with the capacity of suing and being sued in its corporate name, of acquiring, holding, and transferring property, moveable or immoveable, and of entering into contracts. <sup>Incorporation and general functions of municipal boards.</sup>

<sup>1</sup> The word "or" and clauses (b) and (c) were omitted by s. 2 and Sch. I of Act 38 of 1920.

Duties of  
municipal  
board.

7. (1) It shall be the duty of every board to make reasonable provision within the municipality for—

- (a) lighting public streets and places;
- (b) watering public streets and places;
- (c) cleansing public streets, places, and drains, removing noxious vegetation, and abating all public nuisances;
- (d) regulating offensive, dangerous or obnoxious trades, callings or practices;
- (e) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets or public places;
- (f) securing or removing dangerous buildings or places;
- (g) acquiring, maintaining, changing, and regulating places for the disposal of the dead;
- (h) constructing, altering, and maintaining public streets, culverts, markets, slaughter-houses, latrines, privies, urinals, drains, drainage works, and sewerage works;
- (i) planting and maintaining trees on roadsides and other public places;
- (j) providing a sufficient supply of pure and wholesome water where the health of the inhabitants is endangered by the insufficiency or unwholesomeness of the existing supply, guarding from pollution water used for human consumption, and preventing polluted water from being so used;
- (k) registering births and deaths;
- (l) establishing and maintaining a system of public vaccination;
- (m) establishing, maintaining or supporting public hospitals and dispensaries, and providing public medical relief;
- (n) establishing and maintaining primary schools;
- (o) rendering assistance in extinguishing fires and protecting life and property when fires occur;
- (p) maintaining and developing the value of property vested in or entrusted to the management of the board;
- (q) preparing such returns, statements, and reports as the Local Government requires the board to submit; and
- (r) fulfilling any obligation imposed by law upon it.

(2) Provided that no provision for the purpose described in clause (n) of sub-section (1) shall be considered reasonable unless it involves an expenditure of at least five per centum of the normal income of the board after deduction therefrom of the income from special services.

8. (1) A board may make provision, within the limits of the municipality, <sup>1</sup>[and with the sanction of the Commissioner outside such limits] for— Discretion-  
ary func-  
tions of  
boards.

- (a) laying out, in areas whether previously built upon or not, new public streets, and acquiring land for that purpose and for the construction of buildings, and their compounds, to abut on such streets;
- (b) constructing, establishing or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamshalas, rest-houses, encamping-grounds, poor-houses, dairies, baths, bathing-ghâts, washing places, drinking fountains, tanks, wells, dams, and other works of public utility;
- (c) reclaiming unhealthy localities;
- (d) furthering educational objects by measures other than the establishment and maintenance of primary schools;
- (e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;
- (f) making a survey;
- (g) giving relief, on the occurrence of local calamities, by the establishment and maintenance of relief works or otherwise;
- (h) making arrangements for the confinement or destruction of stray dogs;
- (i) securing or assisting to secure suitable places for the carrying on of any trade or manufacture mentioned under sub-head (a) of heading G. of section 298;
- (j) establishing and maintaining a farm or factory for the disposal of sewage;
- (k) constructing, subsidizing or guaranteeing tramways, railroads or other means of locomotion, and electric lighting or electric power works;
- (l) holding fairs and exhibitions; <sup>2</sup>[\*] .
- (m) adopting any measure, other than a measure specified in section 7 or in the foregoing provisions of this section, likely to promote the public safety, health or convenience; <sup>1</sup>[and]
- <sup>1</sup>[(n) the doing of anything whereon expenditure is declared by the Local Government or by the board with the sanction in the case of cities of the Local Government, and in the case of other municipalities of the Commissioner to be an appropriate charge on the municipal fund.]

<sup>1</sup> Inserted by s. 2 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> The word "and" in clause (l) was omitted by *ibid.*

(2) A board may make provision for the extension beyond the limits of the municipality of the benefits of any municipal undertaking:

Provided that no provision shall be made for the extension of the benefits of a municipal undertaking for the supply of water to any local area which comprises or contains the whole or a portion of a cantonment without the previous sanction of the Governor (General in Council).

1\* \* \* \*

Normal  
composition  
of boards.

9. (1) Except as otherwise provided by the next section, each board shall ordinarily consist of—

Elected  
members.

(a) such number of elected members as the Local Government prescribes by notification in this behalf, and

Chairman.

(b) where a person who is not a member of the board is elected or nominated as chairman, the person so elected or nominated, and

Additional  
members.

(c) in municipalities where provision is made under section 11 for separate representation on religious grounds, such persons (if any) not exceeding in number one-fourth of the prescribed number of elected members as are nominated in the manner provided by sub-section (2), and

(d) in other municipalities, such persons (if any), not exceeding one-third of the prescribed number of elected members as are nominated in the manner provided by sub-section (3).

(2) Not more than two of the members who can be nominated under clause (c) of sub-section (1) may be nominated by the Local Government and the remainder by such nominating bodies as the Local Government by rule constitutes in this behalf:

Provided that no class for which separate representation is provided under section 11 shall be a nominating body.

(3) The members who can be nominated under clause (d) of sub-section (1) may be nominated by the Local Government or in such manner as the Local Government prescribes by rule.

Power of  
Local Gov-  
ernment to  
vary normal  
composition  
of board.  
Nominated  
members.

10. (1) The Local Government may declare by notification, in respect of any municipality, that its circumstances render inadvisable the application thereto of the provisions of the preceding section: and in such case the board shall ordinarily consist of—

(a) such number of members nominated by the Local Government as the Local Government prescribes by notification in this behalf, and

Elected  
members.

(b) such number of elected members as the Local Government prescribes by notification in this behalf, and

<sup>1</sup> Sub-section (3) was omitted by s. 2 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

- (c) where a person who is not a member of the board is elected Chairman. or nominated as chairman the person so elected or nominated:

(2) Provided that no notification shall be issued under sub-section (1) in respect of a municipality of which the board is already constituted in accordance with the provisions of section 9.

11. (1) The Local Government may prescribe by rule in respect of any one or more municipalities—

Provision for local and class representation on board.

- (a) the division of the municipality into two or more wards, and the number of representatives to be elected for each ward, and
- (b) the provision to be made for the special representation, among the elected members, of any classes of the community:

(2) Provided that the classes for whom representation may be provided on religious grounds shall be the following two classes and no others:—

- (a) the class consisting of Muslims and
- (b) the class consisting of non-Muslims:

(3) Provided also that not more than two members shall be assigned by rule to any class for which special representation is provided on other than religious grounds, unless the municipality has been specially exempted by rule in this behalf.

12. (1) The power of the Local Government to make rules providing special representation, on religious grounds, for a class specified in sub-section (2) of the previous section, by the assignment to such class of a certain number of elective seats on a board, shall be subject to the conditions set forth in this section.

Conditions governing the provision of special representation on religious grounds.

(2) The number of seats assigned to the class shall be fixed with reference not to the total number of elective seats on the board of the municipality concerned, but with reference only to such number after deduction therefrom of all elective seats assigned to any class or classes on other than religious grounds.

(3) The number of seats assigned to the class shall bear the same proportion to the total net number of seats referred to in sub-section (2) as the population, within the municipality concerned, of the class bears to the total population of such municipality:

Provided that, for the purpose of making the calculation herein prescribed, the population of the class shall—

- (a) if it is less than 25 per centum of the total municipal population, be increased by three-tenths, and
- (b) if it is not less than 25 per centum but is less than 38·5 per centum of the total municipal population, be raised to a

figure bearing to such total population the last-mentioned proportion.

(4) Where the final result of the calculation prescribed by sub-section (3) is a fraction or a whole number and a fraction, the fraction shall be disregarded unless it exceeds one-half and affects a class which comprises less than one-half of the total municipal population, but, if it does both, then the Local Government shall, by notification under section 9 or 10, as the case may be, increase the number of elective seats on the board for the time being by one, and shall assign the extra seat to the class, in addition to any whole number of seats furnished by the aforesaid calculation.

(5) As often as the final returns of a new provincial census are published, the Local Government shall, on the basis of such returns, determine, to one and the nearest place of decimals, the percentage for the time being borne by the collective Muslim population of all the municipalities of the United Provinces (excluding the municipalities of Naini Tal and Mussoorie) to the collective total population of such municipalities, and the percentage so determined shall be deemed to have been substituted in clause (b) of sub-section (3) for the percentage 38·5 therein specified, with effect from such date as it is published by notification made in this behalf and until the issue of a fresh notification under this sub-section.

Special provision in respect of casual vacancies.

13. Where a vacancy occurs on a board by reason of the death, resignation, removal or avoidance of the election of an elected member and the term of office of that member would, in the ordinary course of events, have determined within six months of the occurrence of the vacancy, the board may direct that the vacancy be left unfilled until the next ordinary election

#### *Elections.*

Qualifications of electors.

14. (1) A person shall not be deemed an elector for any purpose of this Act or of any rule under this Act, unless he is enrolled as an elector.

(2) The following persons shall, if not subject to a disqualification specified in sub-section (3), be entitled to be enrolled as electors, namely:—

- (a) every person who in any year is, on such date as is fixed by rule in this behalf, assessed directly and on his own account to municipal taxes, other than octroi or toll or any similar tax, the aggregate value whereof at their annual rate is not less than such amount as is fixed by rule in this behalf, and on the aforesaid date is not in arrears in the payment of any such tax, and



(b) every person who, having for a period of not less than twelve months next preceding the aforesaid date resided in the municipality is on the aforesaid date—

- (i) a graduate of any University, or
- (ii) a payer of income-tax, or
- (iii) an owner of a house or building <sup>1</sup>[in the municipality] of a minimum annual value to be fixed by rule in this behalf, or
- (iv) an occupier of a house or building <sup>1</sup>[in the municipality] of a minimum annual value to be fixed by rule in this behalf, or
- (v) in receipt of a minimum annual income to be fixed by rule in this behalf, or
- (vi) an owner in his own right of land in respect of which land revenue amounting to a minimum sum per annum to be fixed by rule in this behalf is payable, or
- (vii) an owner in his own right of land free of revenue, if the land revenue nominally assessed on such land in order to determine the amount of rates payable in respect of the same, either alone or together with land revenue payable in respect of other land by such owner, amounts to a minimum sum to be fixed by rule in this behalf, or
- (viii) <sup>2</sup>[a fixed-rate tenant, ex-proprietary or occupancy tenant] of land in respect of which rent amounting to a minimum sum per annum to be fixed by rule in this behalf is payable:

Provided that no qualification specified in sub-clauses (ii) to (viii) of clause (b) shall apply to any municipality, unless the qualification is made applicable by rule thereto.

(3) A person, notwithstanding that he is otherwise qualified, shall not be entitled to be enrolled as an elector if he, on the aforesaid date,

- (a) has not attained the age of twenty-one years, or
- (b) is not a British subject, or
- (c) has been adjudged by a competent court to be of unsound mind, or
- (d) is an undischarged insolvent, or
- (e) has been sentenced by a criminal court to imprisonment for a term exceeding six months or to transportation or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having

<sup>1</sup> These words were inserted by s. 3 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> These words were substituted for the words "an ex-proprietary tenant or occupancy tenant" by s. 3 of *ibid*.

subsequently been reversed or remitted or the offender pardoned.

Electoral  
rolls.

15. (1) The elected members of a board shall be persons elected by the electors of that municipality:

(2) Provided that when a municipality is divided into wards for electoral purposes—

- (a) a separate roll or separate rolls shall be prepared for each ward, and
- (b) no person shall be entitled to enrolment on more than one ward, roll, and
- (c) a member representing a ward shall be elected by electors on the roll or rolls of the ward:

(3) Provided also that, where any class of the community in any municipality is declared by rule to be entitled to special representation among the elected members on the board,

- (a) a separate electoral roll or separate rolls shall be prepared for such class, and
- (b) no person belonging to such class shall be entitled to be enrolled on a roll other than a roll prepared for his class, and
- (c) a member representing such class shall be elected by electors on the roll or rolls of the class.

Candidate  
list.

16. (1) A list of persons qualified for election as members of a board, to be called a candidate list, shall be prepared in each municipality in accordance with rules made in this behalf.

(2) The persons entitled to be entered on such list shall be persons enrolled as electors and possessing such qualifications as are prescribed by rule in this behalf.

(3) A person, notwithstanding that he is otherwise qualified, shall not be entitled to be entered in the candidate list if he—

- (a) has been dismissed from Government service and is debarred from re-employment therein, or
- (b) is debarred from practising as a legal practitioner by order of any competent authority, or
- (c) holds any place of profit in the gift or disposal of the municipal board, or
- (d) is disqualified under section 27 or 41, or
- (e) is a stipendiary magistrate or police officer:

Provided that in cases (a) and (b) the disqualification may be removed by an order of the Local Government in this behalf.

Definition of  
certain terms  
in sections, 14,  
5a and 16.

17. For the purposes of sections 14, 15, and 16—

- (a) “person” means an individual human being, and

- (b) a person shall be deemed to pay a tax directly, if he pays the tax himself or through a legally appointed agent.

18. The provisions of sections 14, 15, 16, and 17 shall be subject to any rule conferring on the manager or representative of an undivided family or of any company or firm or other association or body of individuals, or on any trustee of any land a right to vote or to be elected a member of a board.

Provision by rule for enrolment of managers, trustees, etc.

### *Election Petitions.*

19. (1) The election of any person as a member of a board may be questioned by an election petition on the ground—

Power to question municipal election by petition.

- (a) that such person committed during or in respect of the election proceeding a corrupt practice as defined in section 28;
- (b) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes, or for any other reason was not duly elected by a majority of lawful votes.

(2) The election of any person as a member of a board shall not be questioned—

- (a) on the ground that the name of any person qualified to vote has been omitted from, or the name of any person not qualified to vote has been inserted in, the electoral roll or rolls;
- (b) on the ground that the name of any person qualified for election as a member of the board has been omitted from, or that the name of any unqualified person has been inserted in, the candidate list;
- (c) on the ground of any non-compliance with this Act or any rule, or of any mistake in the forms required thereby, or of any error, irregularity or informality on the part of the officer or officers charged with carrying out this Act or any rules, unless such non-compliance, mistake, error, irregularity or informality has materially affected the result of the election.

20. (1) The petition shall be presented within fifteen days after the day on which the election proceedings were held and shall specify the ground or grounds on which the election of the respondent is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds.

Form and presentation of petition.

(2) The petition may be presented by any candidate in whose favour votes have been recorded and who claims in the petition to be declared elected in the room of the person whose election is questioned by ten or more electors of the municipality.

(3) The person whose election is questioned and, where the petition claims that any other candidate shall be declared elected in the room

of such person, every unsuccessful candidate who has polled more votes than such candidate shall be made a respondent to the petition.

Recrimina-  
tory proceed-  
ings.

**21.** Every respondent may give evidence to prove that any person in respect of whom a claim is made, that such person be declared elected in his room or in priority to him, should not be declared so elected, in the same manner as if he had presented a petition against the election of such person.

Tribunal.

**22.** (1) An election petition shall be heard by the Commissioner of the division within which the municipality concerned is situated, unless some other person or tribunal has been appointed by rule in this behalf, and at a place in the district within which such municipality is situated.

(2) An election petition, and any application relating to the hearing of an election petition, may be presented to such Commissioner, or to such other person or tribunal, or to the Collector of the district within which the municipality concerned is situated.

Procedure.

**23.** (1) Except so far as may be otherwise provided by this Act or by rule, the procedure provided in the <sup>1</sup>Civil Procedure Code in regard to suits shall, so far as it is not inconsistent with this Act or any rule and so far as it can be made applicable, be followed in the hearing of election petitions.

(2) Provided that—

- (a) two or more persons whose election is called in question may be made respondents to the same petition, and their cases may be tried at the same time, and any two or more election petitions may be heard together; but, so far as is consistent with such joint trial or hearing, the petition shall be deemed to be a separate petition against each respondent;
- (b) the court shall not be required to record or have recorded the evidence in full, but shall make a memorandum of the evidence sufficient in its opinion for the purpose of deciding the case;
- (c) the court may, at any stage of the proceedings, require the petitioner to give security or further security for the payment of all costs incurred or likely to be incurred by any respondent;
- (d) the court, for the purpose of deciding any issue, shall only be bound to require the production of, or to receive, so much evidence, oral or documentary, as it considers necessary;
- (e) during the hearing of the case the court may refer a question of law to the High Court under Order XLVI of the First Schedule of the <sup>1</sup>Code of Civil Procedure, 1908, but there shall be no appeal either on a question of law or fact, and

<sup>1</sup> Genl. Acts, Vol. VI.

no application in revision against or in respect of the decision of the court;

- (1) the court may, within one month, but not subsequently, review its decision on any point on the application of any person considering himself aggrieved thereby.

24. (1) Unless it is otherwise provided by rule made in this behalf, the election court shall have the same powers and privileges as a judge of a civil court, and may, for the purpose of serving any notice or issuing any process or doing any other such thing, <sup>1</sup>\* \* \* employ, with the consent of the District Magistrate, any peon or other officer or clerk attached to the court of the District Magistrate. Powers of election court.

• (2) An order for costs, or an order for the realization of a security bond for costs, passed by the election court, may be sent by that court for execution to the Collector of the district within which the municipality concerned is situated, and an order so sent shall be executed by the Collector in the same manner as if it were an order by the Collector in proceedings under the <sup>2</sup>Agra Tenancy Act, 1901, or the <sup>3</sup>Oudh Rent Act, 1886, as the case may be.

U. P. Act II  
of 1901.  
XXII of  
1886.

25. (1) If the court after making such enquiry, as it deems necessary, finds, in respect of any person whose election is called in question by a petition, that his election was valid, it shall dismiss the petition as against such person and may award costs at its discretion. Finding of election court.

(2) If the court finds that the election of any person was invalid, it shall either—

- (a) declare a casual vacancy to have been created, or
- (b) declare another candidate to have been duly elected,

whichever course appears, in the particular circumstances of the case, the more appropriate, and in either case may award costs at its discretion.

(3) In the event of the court declaring a casual vacancy to have been created, it shall direct the board to take proceedings for filling the vacancy.

26. (1) Notwithstanding anything contained in the preceding section, if the court in the course of hearing an election petition is of the opinion that the evidence discloses that corrupt practices at the election proceedings in question have prevailed to such an extent as to render it advisable to set aside the whole proceedings, it shall pass a conditional order to this effect and give notice thereof to every candidate declared elected who has not already been made a party in the case calling upon him to show cause why such conditional order should not be made final. Avoidance of election proceedings.

<sup>1</sup> The words "be entitled to" were omitted by s. 4 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> *Supra*.

<sup>3</sup> *Supra*, Vol. I.

(2) Thereupon every such candidate may appear and show cause, and may have recalled, for the purpose of putting questions to him, any witness who has appeared in the case.

(3) The court shall thereafter either cancel the conditional order or make it absolute, in which case it shall direct the board to take measures for holding fresh election proceedings.

*Explanation.*—In this clause the expressions “the election proceedings in question” and “the whole proceedings” shall mean all proceedings (inclusive of nomination and declaration of election) taken in respect of a single poll, whether the poll be for the purpose of selecting one or more persons to represent a ward or otherwise.

Disqualifica-  
tion for  
corrupt  
practice.

27. The court may declare any candidate found to have committed any corrupt practice under the preceding section to be incapable, for any period not exceeding five years, of being elected as a member of the board or of being appointed or retained in any office or place in the gift or disposal of the board.

Corrupt  
practices.

28. A person shall be deemed to have committed a corrupt practice who, directly or indirectly by himself or by any other person—

- (i) induces, or attempts to induce, by fraud, intentional misrepresentation, coercion or threat of injury, any voter to give or to refrain from giving a vote in favour of any candidate;
- (ii) with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money, or valuable consideration, or any place or employment, or holds out any promise of individual advantage or profit to any person;
- (iii) gives or procures the giving of a vote in the name of a voter who is not the person giving such vote;
- (iv) abets (within the meaning of the <sup>1</sup>Indian Penal Code) the doing of any of the acts specified in clauses (i), (ii), and (iii).

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*Explanation.*—A “promise of individual advantage or profit to a person” includes a promise for the benefit of the person himself, or of any one in whom he is interested, but does not include a promise to vote for or against any particular municipal measure.

Conduct of  
elections  
and kindred  
matters.

29. The following matters shall be regulated and governed by rule, namely—

- (a) with reference to section 14, the minimum amounts, salaries or sums qualifying a person to be an elector;
- (b) the qualifications of candidates for election;
- (c) the preparation and revision of electoral rolls and candidate lists;

- (d) the nomination of candidates;
- (e) the dates, time, and manner of holding elections general or casual;
- (f) the prohibition of corrupt or improper practices committed in connection with elections and the punishment of persons guilty of the same;
- (g) any other matter relating to elections or election petitions in respect of which this Act makes no provision or insufficient provision and provision is, in the opinion of the Local Government, necessary.

### *Control of Board.*

30. If at any time, upon representation made or otherwise, it appears to the Local Government that a board persists in making default in the performance of any duty or duties imposed on it by or under this or any other enactment, or in exceeding or abusing its powers, the Local Government may, after taking into consideration the explanation of the board, by an order published with the reasons for making it in the Gazette, "[either dissolve the board or supersede it]" for a period to be specified in the order.

Power of  
Local Gov-  
ernment to  
[dissolve or]  
supersede  
board.

31. When a board is superseded by an order under section 30—

- (a) all members of the board shall, on a date to be specified in the order, vacate their offices as such members, but without prejudice to their eligibility for election or nomination under clause (e);
- (b) during the supersession of the board, such person or persons as the Local Government appoints in that behalf may exercise and shall perform, so far as may be, the powers and duties of the board, and shall be deemed the board for all purposes;
- (c) during such supersession, all property vested in the board shall, pending or in default of the appointment of a person or persons under clause (b), vest in His Majesty;
- (d) during such supersession, the operation of any notification under section 9 or 10 and of any rule under section 11 shall remain in abeyance, but, thereafter, shall revive; and
- (e) before the expiry of the period of supersession, elections shall be held or nominations made or both, as the case may be, for the purpose of reconstituting the board.

Conse-  
quences of  
supersession  
of board.

<sup>1</sup> These words were inserted by s. 5 of the United Provinces Municipalities Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> These words were substituted for the words "supersede the board" by *ibid*.

Consequence  
of dissolution  
of board.

- <sup>1</sup>[31A. When a board is dissolved by an order under section 30,—
- (a) all members of the board shall on a date to be specified in such order vacate their offices as such members, but without prejudice to their eligibility for election or nomination under clause (b);
  - (b) elections shall be held or nominations made or both, as the case may be, on a date [prior to the date mentioned in clause (a)] to be specified in the said order for the purpose of reconstituting the board;
  - (c) a person elected or nominated under clause (b) shall, notwithstanding anything contained in section 38 of this Act, hold office as a member of the board from the date mentioned in clause (a).]

Supervision  
by Commis-  
sioner and  
District  
Magistrate

32. The Commissioner or the District Magistrate, when he is not a member of the board, may, within the limits of his division or district, as the case may be,—

- (a) inspect, or cause to be inspected, any immoveable property used or occupied by a board or joint committee or any work in progress under the direction of a board or of such committee;
- (b) by order in writing call for and inspect a book or document in the possession or under control of a board or of such committee;
- (c) by order in writing require a board or such committee to furnish such statements, accounts, reports or copies of documents, relating to the proceedings or duties of the board or committee, as he thinks fit to call for; and
- (d) record in writing, for the consideration of a board or of such committee, any observations he thinks proper in regard to the proceedings or duties of the board or committee.

Inspection  
of Municipal  
works and  
institutions  
by Govern-  
ment  
officers.

33. A work, or institution, constructed or maintained, in whole or part, at the expense of a board, and all registers, books, accounts or other documents relating thereto shall at all times be open to inspection by such officer as the Local Government appoints in this behalf.

Power of  
Commis-  
sioner or  
District  
Magistrate  
to prohibit  
further  
execution of  
resolution or  
order of  
board.

34. (1) The Commissioner, or the District Magistrate, may, within the limits of his division or district, as the case may be, by order in writing, prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a board or a committee of a board or a joint committee or any officer or servant of a board or of a joint committee, if in his opinion such resolution or order is of a nature to cause or tend to cause obstruction, annoyance or injury

<sup>1</sup> Inserted by s. 6 of the United Provinces Municipalities Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.



to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety, or a riot or affray, and may prohibit the doing or continuance by any person of any act, in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) in respect of a city, a copy thereof, with a statement of the reasons for making it, shall forthwith be forwarded by the District Magistrate through the Commissioner or by the Commissioner, as the case may be, to the Local Government which may thereupon, if it thinks fit, rescind or modify the order.

(3) Where such order is made by a District Magistrate in respect of any other municipality, a copy thereof, with a statement of the reasons for making it, shall forthwith be forwarded by the District Magistrate to the Commissioner, who may thereupon, if he thinks fit, rescind or modify the order.

(4) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the board, if so required by the authority making the order under the said sub-section, to take any action which it would have been entitled to take, if the resolution or order had never been made or passed, and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the further execution is prohibited.

**35. (1)** If at any time, upon representation made or otherwise, it appears to the Local Government that the board of a city, or to the Commissioner that the board of a municipality other than a city, has made default in performing a duty imposed on it by or under this or any other enactment, the Local Government or the Commissioner, as the case may be, may (after calling for an explanation from the board and considering any objection by the board to action being taken under this section) by order in writing fix a period for the performance of that duty.

Power of Local Government and Commissioner in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government or the Commissioner, as the case may be, may appoint the District Magistrate to perform it and may direct that the expense (if any) of performing the duty shall be paid, within such time as may be fixed, to the District Magistrate by the board.

(3) If the expense is not so paid, the District Magistrate, with the previous sanction of the Local Government or the Commissioner, as the case may be, may make an order directing the person having the custody of the municipal fund to pay the expense from such fund.

**36. (1)** In case of emergency the District Magistrate may provide for the execution of any work or the doing of any act which the municipal board is empowered to execute or do, and of which the immediate execution or doing is, in his opinion, necessary for the safety or protection

Extraordinary powers of District Magistrate in case of emergency.

of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the District Magistrate may make an order directing the person having the custody of the municipal fund to pay the expense from such fund.

(3) The District Magistrate shall forthwith report to the Commissioner every case in which he uses the powers conferred on him by this section.

### *Municipal Members.*

Prohibitions  
of remunera-  
tion to  
members.

37. No member of the board shall be allowed any remuneration by the board except with the sanction of the Local Government:

Provided that such sanction shall not be given in the case of a member appointed secretary.

Term of  
office of  
members.

38. (1) The term of office of a member of a board, other than a member of the description specified in sub-section <sup>1</sup>[(1) (a),] (2) or (3) of this section, shall be three years and shall commence from the date of election or nomination or, when the election or nomination has been made before the vacancy has occurred, from the date on which the vacancy occurs.

<sup>1</sup>[(1) (a) The term of office of a member of a board reconstituted under section 31 (e) or section 31-A (b) shall be the period during which the member whose place he fills would have been entitled to retain office had the board not been dissolved or superseded.]

(2) The term of office of an *ex-officio* member, other than a member who holds office by reason only of being chairman, shall continue during the pleasure of the authority nominating him, and shall commence from the date of nomination or, when the nomination has been made before the vacancy has occurred, from the date on which the vacancy occurs.

(3) The term of office of a member elected upon an election being declared void, or to fill a casual vacancy occurring by reason of death, resignation or removal, shall commence from the date of election and shall be the period for which the person whose election has been declared void, or the member whose place he fills, as the case may be, would, at such date, have been entitled, in the ordinary course of events, to retain office if the election had not been declared void, or the vacancy had not occurred.

(4) Provided that the Local Government may, at any time, for the purpose of effecting by notification under section 9 or 10 or by rule under section 11 any change in the composition of a board or for the purpose of carrying into effect any provision made by rule for the establishment or variation of any system of rotation of members or for any

<sup>1</sup> Inserted by s. 7 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

other such purpose, specify by notification a date on which the members of a board or any of them, shall cease to hold office; and, in such case, the period of office of the members concerned shall be extended or curtailed, as the case may be, so as to expire on the said date.

(5) Provided also that a person ceasing to be a member by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or renomination.

39. (1) A member, other than the chairman, of a board wishing to resign may forward his written resignation through the chairman to the Commissioner. Resignation of members.

(2) When the acceptance of the resignation by the Commissioner has been communicated to the board the member shall be deemed to have vacated his seat.

40. (1) The Local Government, in the case of a city, and the Commissioner, in any other case, may remove from the board any member who— Removal of members.

- (a) has absented himself for more than three consecutive months from the meetings of the board and is unable to explain such absence to the satisfaction of the board, or
- (b) is an undischarged insolvent, or
- (c) has been sentenced by a criminal court to imprisonment for a term exceeding six months or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently been reversed or remitted or the offender pardoned, or
- (d) has, within the meaning of section 82, knowingly acquired or continued to hold without the permission in writing of the Commissioner, directly or indirectly or by a partner, any share or interest in any contract or employment with, by, or on behalf of the board, or
- (e) has knowingly acted as a member in a matter other than a matter referred to in clause (d) or (c) of sub-section (2) of section 82, in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person, or
- (f) being a legal practitioner, in any suit or other proceeding, acts or appears, on behalf of any other person, against the board, or against the Secretary of State litigating in respect of nazul land entrusted to the management of the board, or acts or appears on behalf of any other person in

V of 1898.

any criminal proceeding instituted by or on behalf of the board.

(2) A member removed by an order of a Commissioner under clause (d), (e) or (f) of sub-section (1) may appeal therefrom within one month of receiving the order, to the Local Government, and the Local Government may, thereupon, if it thinks fit, cancel the order and reinstate the member.

(3) The Local Government may remove from the board a member who in its opinion has so flagrantly abused in any manner his position as a member of the board as to render his continuance as a member detrimental to the public interest.

(4) Provided that when either the Local Government or the Commissioner, as the case may be, proposes to take action under the foregoing provisions of this section, an opportunity of explanation shall be given to the member concerned, and, when such action is taken the reasons therefor shall be placed on record.

Disabilities  
of members  
removed  
under  
section 40.

41. (1) A member removed under clause (a) of sub-section (1) of the preceding section shall, if otherwise qualified, be eligible for further election or nomination.

(2) A member removed under clause (b) of sub-section (1) of the preceding section shall not be so eligible until he has obtained his discharge.

(3) A member removed under sub-section (3) of the preceding section shall not be so eligible for a period of three years from the date of his removal.

(4) A member removed under any other provision of the preceding section shall not be so eligible until he is declared to be no longer ineligible, and he may be so declared, by an order of the Local Government or the Commissioner, whichever of these authorities passed the order of removal.

Applica-  
tion to  
member of a  
board of the  
term muni-  
cipal commis-  
sioner.

42. The term "municipal commissioner" wherever it occurs in any enactment extending to the United Provinces shall include a member of a board nominated or elected under this Act.

#### *Chairman and Vice-Chairman.*

Election or  
nomination  
of chairman.

43. (1) Whenever it becomes necessary, by reason of an existing or an anticipated vacancy or otherwise, to appoint a chairman, the board shall, by special resolution, elect one of its members or some person qualified for election as a member; provided that no salaried servant of Government other than a Government treasurer shall be elected chairman.

(2) The vacancy shall be filled, in the case of a new municipality, within ten days of the formation of the board, and, in the case of any other municipality, within ten days, or where the vacancy is a casual one, within fifteen days, of the occurrence of the vacancy.

(3) Provided that the Local Government may by notification declare that the foregoing provisions of this section shall not apply to any one or more municipalities, and shall in such case itself nominate such person as it thinks fit to be chairman; but no such notification shall be made, or continue for more than six months to be operative, in respect of a municipality wherein is employed an executive officer appointed by the board with the approval of the Local Government under section 57 or appointed under section 65.

*Explanation.*—“Salaried servant of Government” shall include a person in receipt of a salary from Government, notwithstanding that he is not a full-time servant of Government, but shall not include a retired servant of Government in receipt of a pension.

44. Where a board fails to elect a chairman in the manner prescribed by the previous section, the Local Government in the case of a city, and the Commissioner in any other case, may nominate a chairman.

Procedure on failure of a board to elect a chairman.

45. (1) An outgoing chairman, if otherwise qualified, shall be again eligible for election or nomination as chairman.

Eligibility of chairman for re-election or re-nomination.

(2) Provided that a person shall not be elected for more than two terms of office in succession, as chairman of a city without the sanction of the Local Government, and as chairman of any other municipality without the sanction of the Commissioner.

46. (1) The term of office of a chairman (other than an *ex-officio* chairman) who at the date of his election or nomination is a member of the board shall be the residue of the term of his office as member.

Term of office of chairman.

<sup>1</sup>[(2) The term of office of a chairman (other than an *ex-officio* chairman) who at the date of his election or nomination is not a member of the board shall be—

- (a) except in the cases mentioned in clauses (b), (c), and (d), three years;
- (b) when the board is superseded, until the date of such supersession;
- (c) when the board is dissolved by an order under section 30 or by notification under sub-section (4) of section 38, until the date of such dissolution;
- (d) where such chairman is nominated under section 44 to fill a casual vacancy in the office of chairman, the residue of the term of office of the person whose place he is nominated to fill.]

(3) The term of office of an *ex-officio* chairman shall continue during the pleasure of the authority nominating him.

<sup>1</sup> Substituted for sub-section (2) by s. 8 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

(4) Provided that where a notification under sub-section (3) of section 43 ceases to have effect and a board becomes entitled to elect its chairman, the chairman holding office by reason of his nomination by the Local Government under the said sub-section shall cease to hold office from the date of the election of a chairman by the board.

Resignation  
of chairman.

47. (1) A chairman of a board wishing to resign may forward his written resignation through the District Magistrate,—

- (a) where he is the chairman of the board of a city, to the Local Government, and
- (b) where he is the chairman of any other board, to the Commissioner.

(2) On receipt by the board of information that the resignation has been accepted by the Local Government or the Commissioner, as the case may be, such chairman shall be deemed to have vacated his office.

Removal of  
chairman.

48. (1) A chairman in respect of whom an order has been made under section 40 removing him from the board as member shall thereupon cease to be chairman.

(2) The Local Government may remove a chairman from his office on the ground of habitual failure to perform his duty.

(3) Provided that when the Local Government proposes to take action under sub-section (2), it shall give the chairman concerned an opportunity of explaining the conduct on account of which it is proposed to remove him, and shall, in the event of taking such action, place on record the reasons therefor.

Provision  
for chairman  
always being  
a member of  
Board.

49. Where the chairman of a board is not otherwise a member of the board he shall *ex-officio* be a member of the board so long as he continues to be chairman.

Functions of  
a board that  
must be dis-  
charged by  
the chairman.

50. The following powers, duties, and functions of a board may be exercised, and shall be performed or discharged, by the chairman of the board and not otherwise, namely—

- (a) the powers vested in the chairman by sections 70, 75, and 76 to appoint, punish, or dismiss servants of the board;
- (b) the determination, in accordance with any regulation in this behalf, of questions arising in respect of the service, leave, pay, privileges, and allowances of servants of the board;
- (c) the submission to the Commissioner and the District Magistrate, under section 32 of statements, accounts, reports, or copies of documents, and under sub-sections (4) and (5) of section 94 and sub-section (1) of section 108 of copies of resolutions passed by the board or by a committee of the board;

- (d) such of the powers, duties, and functions referred to in the third column of Schedule I as are delegated by the board under section 112 to the chairman; and
- (e) all other duties, powers, and functions of a board with the exception of—
  - (i) where there is an executive officer, those vested in an executive officer by section 60,
  - (ii) those specified in the second column of Schedule I, and
  - (iii) those delegated by the board under section 112.

51. It shall also be the duty of the chairman—

- (a) unless prevented by reasonable cause, to convene and preside at all meetings of the board; and to control, in accordance with any regulation made in this behalf, the transaction of business thereat;
- (b) to watch over the financial and superintend the executive administration of the board, and bring to the notice of the board any defect therein; and
- (c) to perform such other duties as are required of, or imposed on, him by or under this Act.

Additional  
duties of  
the chair-  
man.

52. (1) The board may require the chairman to furnish it with—

- (a) any return, statement, estimate, statistics or other information regarding any matter appertaining to the administration of the municipality;
- (b) a report or explanation on any such matter; and
- (c) a copy of any record, correspondence, plan, or other document which is in his possession or control as chairman or which is recorded or filed in his office or in the office of any municipal servant.

Power of  
board to  
require re-  
ports, etc.,  
from chair-  
man.

(2) The chairman shall comply with every requisition made under sub-section (1) without unreasonable delay.

[ (3) Nothing in this section or in any other provision of this Act shall be deemed to prevent the board from making regulations authorizing the asking of questions by members at its meetings, subject to such conditions and restrictions as may be prescribed in the regulations.]

53. (1) A chairman may empower, by general or special order, any vice-chairman to exercise under his control any one or more of his powers, duties or functions except those specified in clauses (a) and (b) of section 51.

Delegation  
by chairman  
of his  
powers and  
duties to a  
vice-chair-  
man.

(2) An order by the chairman under sub-section (1) may prescribe any condition, and impose any restriction, in respect of the exercise of

<sup>1</sup> Inserted by s. 2 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 6 of 1919), *infra*, Vol. III.

any power, the performance of any duty or the discharge of any function.

(3) In particular, such order may prescribe the condition that any order by a vice-chairman in the exercise of a power conferred on him by sub-section (1) shall be liable to rescission or revision by the chairman upon appeal to the chairman within a specified time.

Delegation by chairman of powers under clause (a) of section 50.

<sup>1</sup>[53A. (1) A chairman may empower by general or special order any servant of the board to exercise under his control any one or more of the powers specified in clause (a) of section 50.

(2) An order of the chairman under sub-section (1) may prescribe any condition, and impose any restriction in respect of the exercise of any power.

(3) Any order passed by a servant of the board in the exercise of a power conferred on him under sub-section (1) shall be liable to rescission or revision by the chairman.]

Election, term of office, and resignation of vice-chairmen.

54. (1) Every board shall have a vice-chairman, or a senior and a junior vice-chairman, elected, as occasion arises, by the board from among its members by special resolution.

(2) The term of office of a vice-chairman of any description shall be one year from the date of his election or the residue of his term of office as a member of the board, whichever is less.

(3) Any vice-chairman wishing to resign may intimate in writing his intention to do so to the chairman, and on his resignation being accepted by the board he shall be deemed to have vacated his office.

Duties of vice-chairman.

55. (1) A vice-chairman—

- (a) shall, in the absence of the chairman from a meeting of the board and unless prevented by reasonable cause, preside, regulate the conduct of business, and maintain and enforce order, at the meeting, and when so presiding may exercise the powers specified in section 91;
- (b) shall, during a vacancy in the office of chairman or the incapacity or temporary absence of the chairman, perform any other duty and when occasion arises, exercise any other power of the chairman;
- (c) shall at any time perform any duty and exercise, when occasion arises, any power delegated to him by the chairman under section 53.

(2) Where there are two vice-chairmen, the duties and powers specified in clauses (a) and (b) of sub-section (1) shall be performed or may be exercised by the senior vice-chairman and in his absence by the junior

<sup>1</sup> Inserted by s. 9 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.



vice-chairman, and the duties and powers specified in clause (c) by which-ever vice-chairman is named in the order of delegation.

56. Every election and nomination of a member or chairman of a board, and every vacancy in the office of member or chairman, shall be notified in the Gazette.

Notification of elections, nominations, and vacancies.

*The Executive Officer.*

57. (1) A board may, by special resolution, appoint an executive officer.

Power of board to appoint executive officer.

(2) The appointment and the salary and other conditions attached thereto shall be subject to the approval of the Local Government.

58. (1) A board may, by special resolution, punish or dismiss its executive officer.

Punishment and dismissal of executive officer.

(2) A resolution punishing or dismissing an executive officer shall be communicated to him and shall not take effect until the expiration of fifteen days from the date when the communication is received by him, or, in the event of an appeal being filed by him under sub-section (3), until the appeal is decided.

(3) An executive officer may, within fifteen days of the receipt of a resolution of punishment or dismissal, appeal to the Local Government, and the Local Government shall thereupon either allow, disallow or vary the punishment or dismissal.

(4) On receiving an appeal under sub-section (3) the Local Government may, if it thinks fit, suspend the executive officer concerned pending the decision of the appeal.

59. (1) During the absence on leave, or other temporary vacancy in the office of an executive officer, the board may appoint a person to act as executive officer.

Appointment of officiating executive officer.

(2) Every person so appointed may exercise the powers and shall perform the duties conferred or imposed by or under this or any other enactment on the person for whom he is appointed to act.

(3) The provisions contained in sections 57 and 58 applicable to an executive officer shall apply to any person appointed under sub-section (1).

60. (1) In any municipality where there is an executive officer appointed under section 57 or 65, the following powers of the board shall be exercised by such officer, and not otherwise, namely—

Functions of a board that must be discharged by the executive officer.

(a) the power to grant and issue under his signature, or to refuse, any licence which can be granted by a board, other than a licence for a market, slaughter-house or hackney carriage;

(b) the power to suspend or withdraw any such licence;

- (c) the power to receive, recover, and credit to the municipal fund any sum due or tendered to the board;
- (d) the powers conferred by the sections or sub-sections specified in the first column of Schedule II <sup>1</sup>[or where such sections or sub-sections are followed by the words 'in part' by such parts thereof as are indicated by the description in column 2 of the said schedule] and the power to do all things necessary for the exercise of these powers;
- (e) in respect of servants of the board, the powers vested in the executive officer by sections 75 and 76; and the power to grant leave of absence to the holder of any post to which he has power to appoint;
- (f) any other power that has been delegated by the board to the executive officer.

<sup>2</sup>[(2)] Save as provided in section 73 all servants of the board shall be subordinate to the executive officer.

Right of  
appeal from  
orders of  
executive  
officer.

**61.** (1) No appeal shall lie to the board from any order passed by an executive officer in the exercise of the powers conferred upon him by section 60, unless—

- (a) the order is an order against which an entry is shown in the third column of Schedule II, such entry not being avoided by a regulation made under clause (e) of sub-section (1) of section 297 and in force, or
- (b) the order is an order passed in respect of a licence and provision is made for appeal therefrom by any byelaw.

(2) Where an appeal lies it shall be filed within ten days of the communication of the order or of the date on which the order is, under the provisions of this Act, deemed to have been communicated.

(3) When an appeal is filed within such period, the order shall remain suspended until the appeal is decided.

Delegation  
of powers  
by execu-  
tive officer.

**62.** (1) With the sanction of the chairman, an executive officer may empower, by general or special order, any servant of the board to exercise, under his control, any power conferred on him by or under this Act.

(2) An order by the executive officer under sub-section (1) may prescribe any condition and impose any restriction in respect of the exercise of any power.

(3) Any order passed by a servant of the board in the exercise of a power conferred on him under sub-section (1) shall be liable to rescission or revision by the executive officer.

<sup>1</sup> These words were inserted by s. 10 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> This figure was substituted for the figure "3" by *ibid.*

63. (1) The board, or any committee of the board, may require from the executive officer—

- (a) any return, statement, estimate, statistics or other information regarding any matter appertaining to the administration of the municipality;
- (b) a report or explanation on any such matter; and
- (c) a copy of any record, correspondence, or plan or other document which is in his possession or under his control as executive officer or which is recorded or filed in his office or in the office of any servant subordinate to him.

Power of board or committee to require reports, etc. from executive officer.

(2) The executive officer shall comply with every requisition made under sub-section (1) without unreasonable delay.

• 64. The executive officer may, with the permission of the chairman, or in virtue of a resolution passed in this behalf at a meeting of the board or of a committee, make an explanation in regard to a subject under discussion, but shall not vote upon or make a proposition, at such meeting.

Right of executive officer to take part in discussions.

65. (1) The Local Government may by order require a board of a city to exercise the power conferred on it by section 57 to appoint an executive officer or the power conferred by section 59 to appoint a person to act as executive officer.

Power of Local Government to effect appointment of executive officer.

(2) An order under sub-section (1) shall prescribe the period within which the board shall comply therewith.

(3) If the board—

- (a) fails to appoint an executive officer or a person to act as such within the prescribed period, or
- (b) having appointed a person whose appointment is not approved by the Local Government, fails, within a further period to be fixed by the Local Government, to appoint an approved person,

the Local Government may, if it thinks fit, select and appoint a person to be or to act as executive officer, and may also, at its discretion, fix his salary, contribution to provident fund or pension, and conditions of service.

(4) Where under sub-section (3) the Local Government appoints an executive officer, the average sum payable by the board by way of the salary, leave allowances, and contribution to the provident fund or pension of such officer during his period of office shall not exceed Rs. 1,000 a month.

#### *Other Servants.*

66. (1) Every board of a municipality where there is no executive officer shall, by special resolution, appoint one or more secretaries.

Appointment of secretaries.

(2) Each such appointment and the salary and other conditions attached thereto shall be subject to the approval of the Commissioner.

Punishment and dismissal of secretaries.

**67.** (1) A board may, by special resolution, punish or dismiss any secretary appointed under the preceding section subject to the conditions prescribed in section 58 in respect of the punishment and dismissal of an executive officer.

(2) Provided that the power to entertain an appeal against a resolution passed under sub-section (1) or to suspend a secretary pending the decision of such appeal shall vest in the Commissioner and not in the Local Government.

Appointment of health officer and engineers.

**68.** (1) Any board, by special resolution, may, and any board of a city if so required by the Local Government shall, appoint a health officer, an engineer, and a water-works engineer or superintendent.

(2) Each such appointment and the salary and other conditions attached thereto shall be subject to the approval of the Local Government.

Punishment and dismissal of health officer and engineers. Temporary servants required for emergency.

**69.** A board may, by special resolution, punish or dismiss any officer appointed under section 68 subject to the conditions prescribed in section 58 in respect of the punishment or dismissal of an executive officer.

**70.** The power to appoint and fix the salaries of temporary servants in cases of emergency shall vest in the chairman subject to the following conditions namely—

(a) the chairman in the exercise of such power shall not act in contravention of an order of the board prohibiting the employment of temporary servants for any particular work, and

(b) each appointment under this section by the chairman shall be reported at the next meeting of the board following the appointment.

Power of board to determine permanent staff.

**71.** A board may by resolution determine what servants (other than the executive officer, secretaries appointed under section 66, engineers, the health officer or temporary servants appointed under section 70) are required for the discharge of the duties of the board and the salaries to be paid to them respectively.

Combination of offices.

**72.** Subject to the provisions of this Act or of any rule, a board may appoint one person to discharge the duties of any two or more officers.

Appointment and dismissal of servants on the educational establishment.

**73.** The power to appoint, grant leave of absence to, punish, dismiss or control any servant on the educational establishment of the board, shall, in any municipality where a resolution is passed in this behalf, be exercised by the education committee of the board, but shall be subject to any conditions or restrictions imposed by resolution in respect of the delegation of these powers by the committee or in respect of any other matter.

74. Subject to any provisions to the contrary contained in sections 57 to 73, servants on a monthly salary exceeding fifty (or, in a city, seventy-five) rupees shall be appointed, and may be punished or dismissed, by the board.

Appoint-  
ment and  
dismissal of  
permanent  
superior  
staff.

75. (1) Subject to the like provisions, in municipalities where there is an executive officer—

Appoint-  
ment of  
permanent  
interior  
staff.

(a) servants on a monthly salary not exceeding twenty (or, in a city, thirty) rupees shall be appointed by the executive officer, and

(b) servants on a monthly salary exceeding twenty but not exceeding fifty (or, in a city, exceeding thirty but not exceeding seventy-five) rupees, shall be appointed by the executive officer, but each such appointment shall be subject to the sanction of the chairman.

(2) Subject to the like provisions, in municipalities where there is not an executive officer, servants on a monthly salary not exceeding fifty (or, in a city seventy-five) rupees shall be appointed by the chairman.

76. (1) Subject to the like provisions, in municipalities where there is an executive officer—

Dismissal  
and punish-  
ment of  
permanent  
inferior staff.

(a) servants on a monthly salary not exceeding ten (or, in a city, fifteen) rupees may be punished and dismissed by the executive officer, and

(b) servants on a monthly salary exceeding ten but not exceeding fifty (or, in a city, exceeding fifteen but not exceeding seventy-five) rupees may be punished and dismissed by the executive officer, but in such case each order of dismissal, or order imposing a fine exceeding in amount one month's pay of the person fined, or order of suspension for a period exceeding one month, or order of reduction by way of punishment shall be appealable to the chairman.

(2) Subject to the like provisions, in municipalities where there is not an executive officer—

(a) servants on a monthly salary not exceeding ten (or, in a city, fifteen) rupees may be punished and dismissed by the chairman, and

(b) servants on a monthly salary exceeding ten but not exceeding fifty (or, in a city, exceeding fifteen but not exceeding seventy-five) rupees may be punished and dismissed by the chairman, but in such case each order of a description specified in clause (b) of sub-section (1) shall be appealable to the board.

Limitation  
of powers  
conferred by  
sections 71  
to 76.

**77. (1)** The provisions of sections 71, 73, 74, 75, and 76 shall be subject to the provisions of—

(a) section 78, and

(b) any rule, in particular of any rule imposing any conditions on the appointment of persons to offices, or any particular office, requiring professional skill, and on the suspension or dismissal of persons so appointed.

(2) The provisions of sections 74, 75, and 76 shall also be subject to the provisions of any regulation raising any maximum or minimum monthly salary prescribed in those sections with reference to the respective powers of the board, the chairman, and the executive officer over the staff.

*Special provisions as to certain Servants.*

Pension  
and dismis-  
sal in case of  
Government  
servants  
employed by  
board or  
vice versa.

**78. (1)** A board shall contribute to the pension and leave allowances of any servant—

(a) whose services are lent or transferred by Government to the board, or

(b) whose services are lent or transferred by the board to Government, or

(c) who is employed partly by Government and partly by the board.

(2) Such contribution shall be to the extent prescribed by any general rules or special orders made by the Governor General in Council.

(3) A board shall not, without the assent of Government, dispense with the services of any servant described in clause (a) or (c) of sub-section (1), or finally dismiss from its service any servant described in clause (b) of sub-section (1), unless it has given Government at least six months' notice.

(4) In this section "Government" shall mean the Government of India or any Local Government.

Leave  
allowances,  
provident  
fund, annu-  
ties and  
gratuities.

**79. (1)** In every case where a board is entitled to pay a salary to any officer or servant, it shall, subject to any regulations in this behalf be entitled to pay leave allowances to such officer or servant.

(2) A board may establish and maintain a provident fund and may itself contribute thereto.

(3) A board may grant a gratuity, upon his retirement, to any servant of the board who is excluded from participation in the benefits of the provident fund.

(4) The board may, with the previous sanction of the Local Government, grant, or arrange for the purchase of, an annuity to—

(a) any servant who, at the date of his retirement, has not been contributing to a provident fund established under sub-section

(2) or has contributed thereto for a period of less than 10 years, and

(b) any officer or servant injured, otherwise than by reason of his own default, in the execution of his duty, or, where such injury results in death, the family of such officer or servant.

5. A board may, with the like sanction, instead of taking action under clause (b) of sub-section (4), grant a compassionate allowance to an officer or servant referred to therein, or to the family of such officer or servant.

80. The provisions of section 79 shall be subject to the condition that the board shall not, without the special sanction of the <sup>2</sup>[Local Government], grant to any officer or servant or to his family a pension, annuity, or gratuity greater in amount than that to which he or it would have been entitled, under any general or special orders of the Governor (General in Council, [or Local Government])<sup>3</sup> if the service qualifying for the pension, annuity, or gratuity had been service under Government for the same time, on the same pay, and in other respects of the same character.

Limitation of powers conferred by the previous section.

#### *Liability of Members, Officers, and Servants.*

81. Every person shall be liable for the loss, waste, or misapplication of any money, or other property, belonging to the board, if such loss, waste, or misapplication is a direct consequence of his neglect or misconduct while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Local Government in the name of the Secretary of State in Council.

Liability of members for loss, waste or misapplication.

82. (1) A member of a board who, otherwise than with the permission in writing of the Commissioner, knowingly acquires, or continues to have, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the board shall be deemed to have committed an offence under section 168 of the Indian

Penalty on member acquiring interest in contract, etc.

XLV of 1860. Penal Code.<sup>1</sup>

(2) Provided that a person shall not be deemed for the purposes of sub-section (1) to acquire, or continue to have, any share or interest in a contract or employment by reason only of his—

(a) having a share or interest in any lease, sale or purchase of land or buildings, or in any agreement for the same, provided that such share or interest was acquired before he became member, or

(b) having a share in a joint stock company which shall contract with, or be employed by or on behalf of, the board, or

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of Act 38 of 1920.

<sup>3</sup> These words were inserted by *ibid.*

- (c) having a share or interest in a newspaper in which an advertisement relating to the affairs of the board is inserted, or
- (d) holding a debenture or otherwise being interested in a loan raised by or on behalf of the board, or
- (e) being retained by the board as a legal practitioner, or
- (f) having a share or interest in the occasional sale of an article in which he regularly trades to the board to a value not exceeding, in any one year, such amount as the board, with the sanction of the Government, fixes in this behalf, or
- (g) being a party to an agreement made with the board under the provisions of section 196 (c) or of section 229.

Provision  
against  
servants  
being  
interested  
in contract,  
etc.

**83.** (1) A person who has, directly or indirectly, by himself or his partner, a share or interest in a contract with, by or on behalf of a board, or in any employment with, under, by or on behalf of a board, other than as a municipal servant, shall be disqualified for being a servant of such board.

(2) A municipal servant who shall acquire, or continue to have, directly or indirectly, by himself or his partner, a share or interest in any such contract or employment as aforesaid shall cease to be a municipal servant, and his office shall become vacant.

(3) A municipal servant who knowingly acquires or continues to have, directly or indirectly, a share or interest in a contract or, except in so far as concerns his employment as municipal servant, in any employment with, under, by or on behalf of a board of which he is a servant, shall be deemed to have committed an offence under section 168 of the <sup>1</sup>Indian Penal Code of 1860.

(4) Nothing in this section shall apply to any such share or interest in a contract or employment with, under, by or on behalf of the board as is referred to in clauses (b), (d), and (g) of sub-section (2) of section 82, or to any share or interest acquired or retained, with the permission of the Commissioner, in any lease, sale or purchase of land or buildings, or in any agreement for the same.

All officers  
and servants  
of a board  
to be deemed  
public  
servants.

**84.** Every officer or servant of a board shall be deemed to be a public servant within the meaning of the <sup>1</sup>Indian Penal Code; and in the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of this section, be deemed to include a board. XLV of 1860

Penalty on  
specified  
municipal  
servants for  
failure to  
discharge  
their duties.

**85.** (1) A sweeper employed by a board who,—

- (a) except in accordance with the terms of a written contract of service, or with the permission of the board, resigns or abandons his employment, or,



- (b) without a reasonable cause of which notice has, when possible, been given to the board, absents himself from his duties,

shall be liable upon conviction to imprisonment which may extend to two months.

(2) The Commissioner may direct that on and from a specified future date the provisions of sub-section (1) shall apply also to any other specified class of servants employed by a board whose functions intimately concern the public health or safety:

Provided that when a Commissioner makes an order under this sub-section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force, with or without modification, permanently or for such period as it thinks fit.

### CHAPTER III.

#### CONDUCT OF BUSINESS.

##### *Municipal Meetings and Proceedings.*

86. (1) There shall be at least one meeting of the board in every month to be held on a day fixed by regulation or of which notice has been given in a manner provided by regulation in this behalf. Meetings of a board.

(2) The chairman may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene a meeting.

(3) A meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner.

(4) Every meeting shall be held at the municipal office (if any) or other convenient place of which notice has been duly given.

87. (1) Subject to any provision to the contrary made by regulation in this behalf, any business may be transacted at any meeting. Transaction of business at meetings

(2) Provided that no business which is required to be transacted by a special resolution shall be transacted unless previous notice of the intention to transact such business has been given

88. (1) It shall be necessary for the transaction of any business other than business which is required to be transacted by a special resolution that not less than one-third of the total number of members of the board for the time being shall be present. Quorum.

(2) It shall be necessary for the transaction of business which is required to be transacted by special resolution that not less than one-half of such members shall be present.

(3) Provided that, when it is necessary to postpone any business at a meeting for want of the prescribed quorum, the chairman, after the transaction of such business as can be transacted, shall adjourn the meeting to another date, and the business postponed for want of the prescribed quorum shall be transacted on such date, or, in the event of a further adjournment of the meeting to a subsequent date, on such subsequent date, notwithstanding any deficiency in the number of members present.

Chairman of meeting.

89. If at a meeting neither the chairman nor a vice-chairman is present, the members present shall elect one of their number to be the chairman of the meeting, and such chairman shall perform all the duties, and may exercise all the powers, of the chairman of a board when presiding at a meeting.

Publicity of meetings.

90. Every meeting shall be open to the public unless the chairman thereof considers that the public should be excluded during the whole or any part of the meeting.

Power of chairman of meeting to maintain order.

91. Where at a meeting of the board, any member or other person refuses to comply with any direction of the chairman ruling any business, discussion or matter out of order, or otherwise regulating the conduct of members or of business, or where any member or person wilfully disturbs the meeting, the chairman may require that member or person to withdraw from the meeting and in the event of his omitting to do so, may employ against him such force as is necessary, or as in good faith he believes to be necessary, for the purpose of removing and excluding him from the meeting.

Decision by vote.

92. (1) All questions which may come before a meeting of a board shall be decided by a majority of the votes of the members present and voting.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

(3) The foregoing provisions of this section shall be subject to the provisions of sub-section (6) of section 94 and of any other provision of, or under, this or any other enactment requiring a resolution to be supported by any proportion or number of the members.

Right of certain officers to attend and speak at meetings.

93. The Sanitary Engineer, the Sanitary Commissioner or Deputy Sanitary Commissioner, the Civil Surgeon of the district, the Executive Engineer, the Inspector of schools, and any other officer specially authorized by the Local Government in this behalf shall be entitled to attend a meeting of the board and to address the board on any matter affecting their respective departments.

94. (1) The names of the members present, and the proceedings held and resolutions passed, at a meeting of a board shall be entered in a book to be called the minute book. The minute book and resolutions.

(2) The minutes shall be read out at the meeting, or the next ensuing meeting and, after being passed as correct by the members (or a majority of them) present at the reading who were also present at the proceedings recorded in the minutes, shall be certified as passed by the signature of the chairman of the meeting at which they are passed.

(3) Every resolution passed by a board at a meeting shall, where it is possible, be published in a local paper published in English and in a local paper published in vernacular, or, where both such papers do not exist, in a local paper published in one or other of such languages, and, in default of any local paper, in such manner as the Local Government may by rule prescribe.

(4) Copies of every resolution passed by a board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Commissioner and the District Magistrate.

(5) When, subsequent to action being taken in respect of any resolution under sub-section (3) or (4), but before the minutes regarding the resolution are signed as required by sub-section (2), any alteration is made in the wording of such minutes, the alteration shall be notified by publication or communicated to the Commissioner and the District Magistrate, as the case may be.

(6) A resolution of a board shall not be modified or cancelled within six months after the passing thereof,

(a) unless previous notice has been given setting forth fully the resolution which it is proposed to modify or cancel and the motion or proposition for the modification or cancellation of such resolution, and

(b) except by a resolution supported by not less than one-half the total number of members of the board for the time being.

*Conduct of correspondence, accounts, budgets, etc.*

95. The following matters shall be regulated and governed by rules made by the Local Government, namely—

(a) the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of the Local Government and representations by the board addressed to the Local Government shall pass;

Conduct of  
correspond-  
ence,  
accounts,  
budgets, etc.

- (b) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the board;
- (c) the authority by whom and the conditions subject to which such plans and estimates may be sanctioned;
- (d) the agency by which such plans and estimates shall be prepared and by which works shall be carried out;
- (e) the accounts to be kept by boards, the manner in which accounts shall be audited and published, and the power of auditors in respect of disallowance and surcharge;
- (f) the date before which a meeting shall be held for the sanction of the budget;
- (g) the method and forms to be adopted in the preparation of budgets;
- (h) the conditions subject to which a board in respect of which an order has been issued under section 102 shall be entitled to vary or alter its budget; and
- (i) the returns, statements, and reports to be submitted by boards.

#### *Contracts.*

Sanctioning  
of contracts.

96. (1) The sanction of the board by resolution is required in the case of every contract—

- (a) for which budget provision does not exist, or
- (b) involving a value or amount exceeding one thousand rupees in the case of a contract by the board of a city and two hundred and fifty rupees in any other case.

(2) Any contract, other than a contract of either description specified in sub-section (1), may be sanctioned by resolution of the board, or by a committee of the board (not being an advisory committee) empowered in this behalf by regulation, or by any one or more than one officer or servant of the board and so empowered.

(3) Provided that, where the plans and estimates of a project have, in accordance with any rule made in this behalf, been sanctioned by the board, and the execution of the work has been entrusted by the board to an engineer in its service or employment, the board may, with the previous sanction of the Commissioner, empower by resolution such engineer to sanction all contracts, or any one or more contracts of any particular description, required for the execution of the project, and may in like manner impose any condition or restriction on the exercise of the power so conferred.

Execution of  
contracts.

97. (1) Every contract made by or on behalf of a board whereof the value or the amount exceeds Rs. 250 shall be in writing.

(2) Every such contract shall be signed—

(a) by the chairman or a vice-chairman and by the executive officer or a secretary, or

(b) by any person or persons empowered under sub-section (2) or (3) of the previous section to sanction the contract if further and in like manner empowered in this behalf by the board.

(3) If a contract to which the foregoing provisions of this section apply is executed otherwise than in conformity therewith it shall not be binding on the board.

IX of 1908.

98. Where the Indian Registration Act, 1908,<sup>1</sup> or any rule made thereunder, requires or permits any act to be done with reference to a document by a person executing or claiming under the same, and the document has been executed on behalf of a board or is a document under which a board claims, the act may, notwithstanding anything to the contrary contained in the aforesaid enactment or in any rule thereunder, be done by the chairman, the executive officer or a secretary of the board, or by any other officer of the board empowered by regulation in this behalf.

Registration  
of instru-  
ments.

### *The Budget.*

99. (1) Every board shall have prepared, and laid before it, at a meeting to be held in every year before such date as is fixed by rule in this behalf, a complete account of the actual and expected receipts and expenditure for the year ending on the thirty-first day of March next following such date together with a budget estimate of the income and expenditure of the board for the year commencing on the first day of April next following.

The budget.

(2) Subject to the provisions of section 102, the board shall at such meeting decide upon the appropriations and the ways and means contained in the budget estimate and, by special resolution, sanction a budget, which shall be submitted to the Local Government or to such officers as the Local Government by order directs in this behalf.

(3) Subject to the like provisions, the board may vary or alter from time to time, as circumstances may render desirable, by special resolution the budget sanctioned under sub-section (2).

100. As soon as may be after the first day of October, a revised budget for the year shall be framed and such revised budget shall, so far as may be, be subject to all the provisions applicable to a budget made under section 99.

The revised  
budget.

Minimum closing balance shown in Budget. Budgets of indebted boards.

101. In framing a budget a board shall provide for the maintenance of such minimum closing balance (if any) as the Local Government may by order prescribe.

102. Where, in the opinion of the Local Government the condition of indebtedness of any board is such as to make the control of Government over its budget desirable, the Local Government may, by order declaring that such is the case, direct that the budget of such board shall be subject to the sanction of the Local Government or of the Commissioner, and that the power to vary or alter the budget under sub-section (3) of section 99 shall be subject to conditions to be prescribed by rule.

Prohibition of expenditure in excess of budget.

103. (1) Where a budget has been passed the board shall not incur any expenditure under any of the heads of the budget, other than a head providing for the refund of taxes, in excess of the amount passed under that head, without making provision for such excess by the variation or alteration of the budget.

(2) Where any expenditure under any head providing for the refund of taxes is incurred in excess of the amount passed under that head, provision shall be made without delay for such expenditure by the variation or alteration of the budget.

#### *Committees and Joint Committees.*

Appointment of committees.

104. (1) A board may—

- (a) by regulation establish such committees as it thinks fit, for the purpose of exercising such powers performing such duties or discharging such functions as may be delegated to a committee under section 112, and
- (b) by resolution appoint such of its members as it thinks fit for a period not exceeding one year to any committee so established, and
- (c) by resolution remove any member appointed under clause (b).

(2) Provided that a board may from time to time by resolution establish and appoint the members of, one, or more than one, advisory committee for the purpose of enquiring into, and reporting on any matter in respect of which a decision of the board is required by or under this Act.

Appointment of persons other than members.

105. (1) Notwithstanding anything contained in this Act, it shall be lawful for a board by a resolution supported by not less than one-half of the whole number of members for the time being, to appoint as members of a committee any persons of either sex who are not members of the board, but who, in the opinion of the board, possess special qualifications for serving on such committee:

Provided that the number of persons so appointed on a committee shall not exceed one-third of the total number of the members of the committee.

(2) All the provisions of this Act, and of any rules relating to the duties, powers, liabilities, disqualifications, and disabilities of members shall, save as regards a disqualification on the ground of sex, be applicable, so far as may be, to such persons.

106. A vacancy occurring in any committee may at any time be filled up by the appointment by the board, in the manner prescribed by section 104 or section 105, of another member or person. Vacancies in committees

107. (1) The board may by resolution appoint a chairman for any committee. Chairman of a committee.

(2) In default of a chairman being appointed by the board, a committee shall appoint its own chairman from among its members.

108. (1) The provisions of sub-sections (1) and (2) of section 92, of section 93, and of sub-sections (1), (2), (4), (5), and (6) of section 94 shall apply to the proceedings of committees of a board, as if the words "a committee" were substituted for the words "a board" or "the board" wherever they occur therein. Procedure of committees.

(2) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the chairman of the board or of not less than two members of the committee, call a meeting of the committee.

(3) Subject to the provision contained in sub-section (4), no business shall be transacted at any meeting unless more than one-fourth of the members of the committee are present thereat.

(4) Where it is necessary to postpone any business a meeting of a committee for want of the prescribed quorum, the procedure specified in sub-section (3) of section 88 shall be followed.

109. (1) The board may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report concerning or connected with any matter with which the committee has been authorized or directed to deal. Subordination of committees to board.

(2) Every committee shall, with all convenient speed, comply with any requisition of the board made under sub-section (1).

110. (1) A board may, and if so required by the Local Government shall, combine with one, or more than one, other assenting local authority to appoint, by means of a written instrument subscribed by the local authorities concerned, a joint committee for the purpose of transacting any business in which they are jointly interested. Joint committees.

(2) Such instrument shall prescribe the number of members who shall be chosen by each local authority to represent it upon the joint

committee, the person who shall be chairman thereof, the powers being powers exercisable by one or more of the concurring local authorities, which may be exercised by the joint committee, and the method of conducting the proceedings and correspondence thereof.

(3) Such instrument may from time to time be varied or rescinded by a further instrument subscribed by all the local authorities concerned, and, in the event of the rescission of any instrument under this sub-section all proceedings thereunder shall be deemed inoperative with effect from a date to be specified in such further instrument.

(4) Any difference of opinion arising in the course of any proceedings under the foregoing provision of this section between two or more local authorities shall be decided by reference to the Local Government under section 325.

*Exercise and delegation of powers by board.*

Powers of which the exercise is reserved to a board acting by resolution.

**111.** (1) The powers, duties, and functions specified in the second column of Schedule I, with the exception of those against which an entry is shown in the third column of that Schedule, may be exercised, and shall be performed or discharged, by a board by resolution passed at a meeting of the board and not otherwise.

(2) Nothing in sub-section (1) shall be construed to prevent a resolution of a board being carried into execution by any agency duly authorized in this behalf by or under this Act, or by a servant of the board acting within the scope of his employment.

Delegation of powers by board.

**112.** (1) With the exception of a power, duty or function—

- (a) specified in the second column, and against which no entry is shown in the third column, of Schedule I;
- (b) reserved or assigned to a chairman by clauses (a), (b), and (c) of section 50 or by section 51; and,
- (c) where there is an executive officer, reserved to that officer by section 60,

a board may delegate by regulation all or any of the powers, duties or functions conferred or imposed on or assigned to, a board under this Act.

(2) Except as provided in sub-section (3), a board shall not itself exercise, perform or discharge, or interfere in the exercise, performance or discharge of any power, duty or function which it has delegated under sub-section (1).

(3) The delegation by the board under sub-section (1) of any power, duty, or function may be made subject to the condition that all or any orders made in pursuance of such delegation shall be subject to the right of appeal to, or revision by, the board within a specified period.



(1) Nothing in the foregoing provisions of this section shall be deemed to prevent a resolution of a committee of a board being carried into execution by any agency duly authorized in this behalf by or under this Act or to preclude any servant of the board from acting within the scope of his employment.

*Validity of acts and proceedings.*

113. (1) No vacancy in a board or in a committee of a board shall vitiate any act or proceeding of board or of such committee. Presump-  
tions and  
savings.

(2) No disqualification, or defect in the election, nomination or appointment, of a person acting as a member of a board or of a committee appointed under this Act, or as the chairman of a meeting of a board or of such committee, shall be deemed to vitiate any act or proceeding of the board or of the committee, if the majority of the persons present at the time of the act being done, or proceeding being taken were qualified and duly elected <sup>1</sup>[or nominated] members of the board or committee.

(3) Until the contrary is proved, any document or minutes which purport to be the record of the proceedings of a board or committee shall, if substantially made and signed in the manner prescribed for the making and signing of the record of such proceedings be deemed to be a correct record of the proceedings of a duly convened meeting held by a duly constituted board or committee whereof all the members were duly qualified.

## CHAPTER IV.

### MUNICIPAL FUND AND PROPERTY.

114. (1) There shall be for each municipality a municipal fund, Municipal  
fund. and there shall be placed to the credit thereof—

- (a) all sums received by or on behalf of the board;
- (b) all fines realized on conviction under the provisions of this Act or of the <sup>2</sup>Prevention of Cruelty to Animals Act, 1890, or under section 34 of the <sup>3</sup>Police Act, 1861, or under the provisions of any Act wherein or whereunder provision is made for the fine being credited to the municipality.

(2) Nothing in this section shall affect any obligations of a board arising from a trust legally imposed upon or accepted by it.

<sup>1</sup> These words were inserted by s. 11 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

<sup>2</sup> Genl. Acts, Vol. IV.

<sup>3</sup> Genl. Acts, Vol. I.

Custody  
and invest-  
ment of  
municipal  
fund.

**115.** (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in such treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be kept with a banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so kept as the Local Government may in each case think sufficient.

(3) Provided that nothing in the foregoing provisions of this section shall be deemed to preclude a board from, with the previous sanction of the Local Government, investing in any of the securities described in section 20 of the <sup>1</sup>Indian Trusts Act, 1882, or placing on fixed deposit <sup>II of 1882:</sup> with a Presidency Bank, any portion of its municipal fund which is not required for immediate expenditure.

Property  
vested in  
board.

**116.** Subject to any special reservation made by the Local Government, all property of the nature hereinafter in this section specified and situated within the municipality shall vest in and belong to the board, and shall, with all other property which may become vested in the board, be under its direction, management, and control, that is to say—

- (a) all public town walls, gates, markets, slaughter-houses, manure and nightsoil depôts, and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (b) all public streams, lakes, springs, tanks, wells, and works for the supply, storage, and distribution of water for public purposes, and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto, and also any adjacent land not being private property appertaining to any public tank or well;
- (c) all public sewers, drains, culverts and water-courses, and all works, materials, and things appertaining thereto;
- (d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind, or dead bodies of animals, collected by the board from the streets, houses, privies, sewers, cesspools or elsewhere or deposited in places appointed by the board under section 273;
- (e) all public lamps, lamp-posts, and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the board by His Majesty, or by gift, purchase or otherwise for local public purposes; and

- (g) all public streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements, and things existing on or appertaining to such streets.

I of 1894.

**117.** Where a board, for the purpose of exercising any power or performing any duty conferred or imposed upon it by or under this or any other enactment, desires the Local Government to acquire on its behalf, permanently or temporarily, any land or any right in respect of land under the provisions of the Land Acquisition Act, 1894,<sup>1</sup> or of other existing law, the Local Government may, at the request of the board, acquire such land or such right under the aforesaid provisions and, on payment by the board to the Local Government of the compensation awarded thereunder and of the charges incurred by the Local Government in connection with the proceedings, the land or right, as the case may be, shall vest in the board.

Compulsory acquisition of land.

**118.** Subject to the provisions of the next section and to any condition imposed by the owner of the property, a board may manage and control any property entrusted to its management and control.

Power of board to manage and control property entrusted to its management.

**119.** (1) The management, control, and administration of every public institution maintained exclusively out of the municipal fund shall vest in the board.

Public institution.

(2) Any other public institution may be vested in, placed under the management, control, and administration of the board: provided that the extent of the independent authority of the board in respect thereof may be prescribed by rule.

(3) All property, endowments, and funds belonging to any public institution vesting in, or placed under the management, control, and administration of a board shall be held by the board in trust for the purposes to which such property, endowments, and funds were lawfully applicable at the time when the institution became so vested or was so placed.

VI of 1890.

(4) Provided that nothing in the foregoing provisions of this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890.

**120.** (1) The municipal fund and all property vested in a board shall be applied for the purposes, express or implied, for which, by or under this or any other enactment, powers are conferred or duties or obligations are imposed upon the board.

Application of municipal fund and property.

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<sup>1</sup> Genl. Acts, Vol. IV.

(2) Provided that the board shall not incur any expenditure for acquiring or renting land beyond the limits of the municipality or for constructing any work beyond such limits except—

- (a) with the sanction of the Local Government, and
- (b) on such terms and conditions as the Local Government imposes.

(3) Provided also that priority shall be given, in the order set forth below, to the following liabilities and obligations of a board:

- (a) liabilities and obligations arising from a trust legally imposed upon, or accepted by, the board;
- (b) the repayment of, and the payment of interest on any loan incurred under the provisions of the <sup>1</sup>Local Authorities Loans Act, 1914;
- (c) the payment of establishment charges, including such contributions as are referred to in section 78, and the salary, allowances, and pension of an executive officer appointed by Government;
- (d) any sum ordered to be paid from the municipal fund under sub-section (3) of section 35, sub-section (2) of section 36, section 126, sub-section (3) of section 163 or sub-section (3) of section 320.

IX of 1914.

Disposal of  
municipal  
fund when  
area ceases  
to be a  
municipality

**121.** (1) When, by reason of a notification under section 3, any local area ceases to be a municipality and is immediately placed under the control of some other local authority, the municipal fund and property vesting in the board shall vest in such other local authority, and the liabilities of the board shall be transferred to such other local authority.

(2) When, in like manner, any local area ceases to be a municipality and is not immediately placed under the control of another local authority, the balance of the municipal fund and other property vesting in the board shall vest in His Majesty, and the liabilities of the board shall be transferred to the Secretary of State in Council.

Disposal of  
municipal  
fund when  
area ceases  
to be  
included in  
municipa-  
lity

**122.** (1) When, by reason of a notification under section 3, any local area ceases to be included in a municipality and is immediately placed under the control of some other local authority, such portion of the municipal fund and other property vesting in the board shall vest in that other local authority, and such portion of the liabilities of the board shall be transferred to that other local authority, as the Local Government, after consulting the board and that other authority, declares by notification.

<sup>1</sup> Genl. Acts, Vol. VIII.

(2) When in the like manner, any local area ceases to be included in a municipality and is not immediately placed under the control of some other local authority, such portion of the municipal fund and other property vesting in the board shall vest in His Majesty and such portion of the liabilities of the board shall be transferred to the Secretary of State in Council as the Local Government, after consulting the board and considering any representations made by the inhabitants of the excluded area, declares by notification.

(3) Provided that where an excluded local area is placed under the control of a local authority not existing at a date previous to the exclusion, the Local Government, before making a declaration under sub-section (1), shall take into consideration any representation made by the inhabitants of the excluded area.

(4) Provided also that the foregoing provisions of this section shall not apply in any case where the circumstances, in the opinion of the Local Government, render undesirable the transfer of any portion of the municipal fund or liabilities.

**123.** Any municipal fund or portion of a municipal fund or other property of a board accruing under the provisions of section 121 or 122 to His Majesty shall be applied in the first place to satisfy any liabilities of the board transferred under such provisions to the Secretary of State in Council and secondly for the benefit of the inhabitants of the local area.

Application by Government of funds and property accruing to it under section 121 or 122.

**124.** (1) Subject to any restriction imposed by or under this Act, a board may transfer by sale, mortgage, lease, gift, exchange or otherwise any property vested in the board, not being property held by it on any trust the terms of which are inconsistent with the right to so transfer.

Power of board to transfer property.

(2) Notwithstanding anything contained in sub-section (1) the board may, with the sanction of the Local Government, transfer to His Majesty any property vested in the board but not so as to affect any trusts or public rights to which the property is subject.

(3) Provided that every transfer under sub-section (1), other than a lease for a term not exceeding one year, shall be made by instrument in writing sealed with common seal of the municipality and otherwise complying with all conditions in respect of contracts imposed by or under this Act.

**125.** The board may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the board, its officers or servants under this or any other enactment or vested in the Local Government, the Commissioner or the District Magistrate under section 34, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

Payment of compensation from municipal fund.

Payment by board for special police protection at fairs, etc.

**126.** (1) When special police protection is, in the opinion of the Local Government, requisite on the occasion of a fair, agricultural show or industrial exhibition managed by a board, the Local Government may provide protection, and the board shall pay the whole charge thereof or such portion of such charge as the Local Government considers equitably payable by it.

(2) If the sum charged is not paid, the District Magistrate may make an order directing the person having the custody of the municipal fund to pay the expense from such fund.

Other matters relating to municipal fund and property.

**127.** The following matters shall be regulated and governed by rules made by the Local Government under section 296, namely:—

- (a) the authority on which money may be paid from the municipal fund;
- (b) the conditions on which property may be acquired by the board or on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise; and
- (c) any other matter relating to the municipal fund or municipal property in respect of which the Act makes no provision or insufficient provision and provision is necessary.

## CHAPTER V.

### MUNICIPAL TAXATION.

#### *Imposition and alteration of Taxes.*

Taxes which may be imposed.

**128.** (1) Subject to any general rules or special orders of the [Local Government] in this behalf, the taxes which a board may impose in the whole or any part of a municipality are—

- (i) a tax on the annual value of buildings or lands or of both;
- (ii) a tax on trades and callings carried on within the municipal limits and deriving special advantages from, or imposing special burdens on, municipal services;
- (iii) a tax on trades, callings, and vocations including all employments remunerated by salary or fees;
- (iv) a tax on vehicles and other conveyances plying for hire or kept within the municipality or on boats moored therein;
- (v) a tax on dogs kept within the municipality;
- (vi) a tax on animals used for riding, driving, draught or burden, when kept within the municipality;
- (vii) a toll on vehicles and other conveyances, animals, and laden coolies entering the municipality;

<sup>1</sup> These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of Act 38 of 1920.

- (viii) an octroi on goods or animals brought within the municipality for consumption or use therein;
- (ix) a tax on inhabitants assessed according to their circumstances and property;
- (x) a water tax on the annual value of buildings or lands or of both;
- (xi) a scavenging tax;
- (xii) a tax for the cleansing of latrines and privies;
- <sup>1</sup>[(xiii) a tax on goods imported into, or exported from, any municipality in which an octroi was in force on the sixth day of July, 1917, or with the previous sanction of the Governor General in Council, any other municipality.]
- <sup>2</sup>[(xiii-A) any other tax which, under rules made under clause (a) of section 80-A., sub-section (3) of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General.]
- <sup>3</sup>(xiv) <sup>4</sup>[any tax not authorised under clauses (i) to (xiii-1)] to the proposals for imposing which sanction has been given by the Local Government and confirmed by the Governor General in Council under sub-section (3) of section 133.

(2) Provided that taxes under clauses (iii) and (ix) of sub-section (1) shall not be levied at the same time, <sup>5</sup>[nor shall an octroi on goods under clause (viii) of sub-section (1) and a tax under clause (xiii) of sub-section (1) be levied at the same time.]

**129.** The imposition of a tax under clause (x) of sub-section (1) or section 128 shall be subject to the following restrictions, namely:—

- (a) that the tax shall not be imposed on land exclusively used for agricultural purposes, or where the unit of assessment is a plot of land or a building as hereinafter defined, on any such plot or building of which no part is within a radius, to be fixed by rule in this behalf for each municipality, from the nearest standpipe or other water-work whereat water is made available to the public by the board, and
- (b) that the tax is imposed solely with the object of defraying the expenses connected with the construction, maintenance, extension or improvement of municipal water-works and

Restrictions  
on the  
imposition  
of water  
tax.

<sup>1</sup> This clause was inserted by s. 2 of the United Provinces Municipalities (Amendment) Act, 1918 (U. P. Act I of 1918), *infra*, Vol. III.

<sup>2</sup> This clause was inserted by s. 2 and Sch. I of Act 38 of 1920.

<sup>3</sup> This clause was renumbered by s. 2 of the United Provinces Municipalities (Amendment) Act, 1918 (U. P. Act I of 1918), *infra*, Vol. III.

<sup>4</sup> These words were substituted for the words "any other tax" by s. 2 and Sch. I of Act 38 of 1920.

<sup>5</sup> These words and letters were added by s. 3 of the United Provinces Municipalities (Amendment) Act, 1918 (U. P. Act I of 1918), *infra*, Vol. III.

that all moneys derived therefrom shall be expended solely on the aforesaid objects.

*Explanation.*—In this section—

- (a) “building” shall include the compound (if any) thereof, and, where there are several buildings in a common compound, all such buildings and common compound;
- (b) “a plot of land” means any piece of land held by a single occupier, or held in common by several co-occupiers, whereof no one portion is entirely separated from any other portion by the land of another occupier or of other co-occupiers or by public property.

Restrictions  
on the  
imposition  
of other  
taxes

**130.** The imposition of a tax under clause (vi) or (vii) of sub-section (I) of section 123 shall be subject to the following restrictions, namely:—

- (a) that the tax is imposed solely with the object of defraying the expenses connected with the scavenging of houses and buildings or the cleansing of latrines and privies, as the case may be, and that all moneys derived therefrom shall be expended solely on the aforesaid object, and
- (b) that the tax shall not be assessed on any house or building, or leviable from the occupier of any house or building, unless the board, under section 196, clause (a), undertakes the house-scavenging, or the cleansing of the latrines or privies, of such house or building.

Framing of  
preliminary  
proposals.

**131.** (I) When a board desires to impose a tax, it shall, by special resolution, frame proposals specifying—

- (a) the tax, being one of the taxes described in sub-section (I) of section 128, which it desires to impose;
- (b) the persons or class of persons to be made liable and the description of property or other taxable thing or circumstance in respect of which they are to be made liable, except where and in so far as any such class or description is already sufficiently defined under clause (a) or by this Act;
- (c) the amount or rate leviable from each such person or class of persons;
- (d) any other matter referred to in section 153, which the Local Government requires by rule to be specified.

(2) The board shall also prepare a draft of the rules which it desires the Local Government to make in respect of the matters referred to in section 153.

(3) The board shall, thereupon, publish in the manner prescribed in section 94 the proposals framed under sub-section (I) and the draft rules framed under sub-section (2) along with a notice in the form set forth in Schedule III.



132. (1) Any inhabitant of the municipality may within a fortnight from the publication of the said notice, submit to the board an objection in writing to all or any of the proposals framed under the preceding section, and the board shall take any objection so submitted into consideration and pass orders thereon by special resolution.

Procedure subsequent to framing proposals.

(2) If the board decides to modify its proposals or any of them, it shall publish modified proposals and (if necessary) revised draft rules, along with a notice indicating that the proposals and rules (if any) are in modification of proposals and rules previously published for objection.

(3) Any objections which may be received to the modified proposals shall be dealt with in the manner prescribed in sub-section (1).

(4) When the board has finally settled its proposals, it shall submit them along with the objections (if any) made in connection therewith to the Commissioner.

133. (1) In the case of a municipality other than a city, if the proposed tax falls under clauses (i) to (xii) of sub-section (1) of section 128, the Commissioner, after considering the objections received under sub-section (4) of section 132, may either refuse to sanction the proposals or return them to the board for further consideration, or sanction them without modification or with such modification not involving an increase of the amount to be imposed, as he deems fit.

Power of Local Government or commissioner to reject, sanction, or modify proposals.

(2) In any other case, the Commissioner shall submit the proposals and objections to the Local Government, who may pass any of the orders described in sub-section (1).

(3) If the proposed tax does not fall under clauses (i) to (xii) of sub-section (1) of section 128, <sup>1</sup>[or under the first part of clause (xiii) <sup>2</sup>[or under clause (xiii-A)] of the said sub-section] the Local Government shall submit its order of sanction for the confirmation of the Governor-General in Council along with the objections (if any) against the proposals received through the board; and the Governor General in Council may either confirm the sanction or disallow it, or may return the proposals to the Local Government for further consideration.

134. (1) When the proposals have been sanctioned by the Commissioner or the Local Government, or when the sanction of the Local Government has been confirmed by the Governor General in Council, as the case may be, the Local Government, after taking into consideration the draft rules submitted by the board, shall proceed forthwith to make under section 296 such rules in respect of the tax as for the time being it considers necessary.

Resolution of board directing imposition of tax.

<sup>1</sup> These words and letters were inserted by s. 4 of the United Provinces Municipalities (Amendment) Act, 1918 (U. P. Act I of 1918), *infra*, Vol. III.

<sup>2</sup> These words and figures were inserted by s. 2 and Sch. I of Act 38 of 1920.

(2) When the rules have been made, the order of sanction and a copy of the rules shall be sent to the board, and thereupon the board shall by special resolution direct the imposition of the tax with effect from a date to be specified in the resolution.

Imposition  
of tax.

**135.** (1) A copy of the resolution passed under section 134 shall be submitted to the Local Government if the tax has been sanctioned by the Local Government and to the Commissioner in any other case.

(2) Upon receipt of the copy of the resolution the Local Government or Commissioner, as the case may be, shall notify in the Gazette the imposition of the tax from the appointed date, and the imposition of a tax shall in all cases be subject to the condition that it has been so notified.

(3) A notification of the imposition of a tax under sub-section (2) shall be conclusive proof that the tax has been imposed in accordance with the provisions of this Act.

Procedure  
for altering  
taxes.

**136.** The procedure for abolishing a tax, or for altering a tax in respect of the matters specified in clauses (b) and (c) of sub-section (1) of section 131, shall, so far as may be, be the procedure prescribed by sections 131 to 135 for the imposition of a tax.

Power of  
Government  
to levy or  
abolish a  
tax.

**137.** (1) Whenever it appears, on complaint made or otherwise, to the Local Government that the levy of any tax is contrary to the public interest or that any tax is unfair in its incidence, the Local Government may, after considering the explanation of the board of the municipality, concerned, by order require such board to take measures, within a time to be specified in the order, for the removal of any defect which it considers to exist in the tax or in the method of assessing or collecting the tax.

(2) Upon the failure or inability of the board to comply, to the satisfaction of the Local Government with an order made under sub-section (1), the Local Government may by notification suspend the levy of the tax, or of any portion thereof, until the defect is removed, or may abolish or reduce the tax.

#### *Consolidated Taxes.*

Consolidation  
of taxes.

**138.** (1) For the purpose of assessing, levying, or collecting, but not for the purpose of imposing or granting exemption from, the taxes described in clauses (i), (x), and (xi) of sub-section (1) of section 128, a board may consolidate any two or more of such taxes which are imposed upon buildings or lands or both.

(2) Provided that in any register or assessment list relating to a consolidated tax and used for the purpose of informing any person of his liability thereunder or for the purpose of securing compliance

with the provisions of section 129 or 130, the board shall apportion the consolidated tax amongst the several taxes comprised therein, so as to show approximately the amount assessed or collected on account of each separate tax.

**139.** (1) In assessing a consolidated tax, effect shall be given to any partial or total exemption from any single tax comprised therein. Deductions required by exemptions.

(2) Such effect shall be given—

- (a) in the case of a partial exemption, by means of the deduction from the total amount of the consolidated tax which would otherwise be leviable or assessable in respect of any buildings or lands or both to which the exemption applies, of a proportionate part, corresponding to the exemption, of the amount which might otherwise have been assessed on account of the single tax; and
- (b) in the case of a total exemption, by means of the deduction from such total amount of the whole amount assessed on account of the single tax.

*Assessment and levy of Taxes on the Annual Value of buildings or lands or both.*

**140.** (1) “Annual value” means—

Definition of annual value.

- (a) in the case of railway stations, hotels, colleges, schools, hospitals, factories and other such buildings, a proportion not exceeding five per centum, to be fixed by rule made in this behalf, of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appurtenant thereto, and
- (b) in the case of a building or land not falling within the provisions of clause (a), the gross annual rent for which such building, exclusive of furniture or machinery therein, or such land is actually let, or, where the building or land is not let or in the opinion of the board is let for a sum less than its fair letting value, might reasonably be expected to let from year to year.

(2) Provided that, where the annual value of any building would, by reason of exceptional circumstances, in the opinion of the board be excessive if calculated in the aforesaid manner, the board may fix the annual value at any less amount which appears to it equitable.

**141.** (1) When a tax on buildings or lands or both is imposed, the board shall cause an assessment list of all buildings or lands or both in the municipality to be prepared, containing— Preparation of assessment list.

- (a) the name of the street or muhalla in which the property is situated;

- (b) the designation of the property, either by name or by number, sufficient for identification;
- (c) the names of the owner and occupier, if known;
- (d) the annual letting value or other particulars determining the annual value; and
- (e) the amount of the tax assessed thereon.

(2) For the purpose of making such assessment list, the board may from time to time appoint, with or without remuneration, any person or persons, whether members or not, and the person or persons so appointed may, for such purpose, make an inspection of any property concerned.

Publication  
of list.

**142.** When the assessment list has been prepared the board shall give public notice of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, and an agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Objections  
to entries  
in list.

**143.** (1) The board shall at the same time give public notice of a date, not less than one month thereafter, when it will proceed to consider the valuations and assessments entered therein; and in all cases in which any property is for the first time assessed or the assessment is increased, it shall also give notice thereof to the owner or occupier of the property, if known.

(2) All objections to valuations and assessments shall be made to the board, before the date fixed in the notice, by application in writing stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the board for the purpose.

(3) The board, or a committee empowered by delegation in this behalf, or an officer of Government or of the board to whom, with the permission of the Commissioner, the board delegates, and it is hereby empowered so to delegate by resolution, powers in this behalf, shall, after allowing the applicant an opportunity of being heard in person or by agent—

- (a) investigate and dispose of the objections,
- (b) cause the result thereof to be noted in the book kept under sub-section (2), and
- (c) cause any amendment necessary in accordance with such result to be made in the assessment list.

Authenti-  
cation and  
custody of  
list.

**144.** (1) When all objections made under section 143 have been disposed of, and all amendments required by sub-section (3) of that section have been made in the assessment list, the said list shall be

authenticated by the signature of the chairman or, in the case of delegation under section 143 to a committee or to an officer of Government or of the board, by the signature of not less than two members of such committee or by the signature of the officer aforesaid; and the person or persons so authenticating the list shall certify the consideration of all objections duly made and the amendment of the list so far as required by the decisions on such objections.

(2) The list so authenticated shall be deposited in the municipal office, and shall, thereupon, be declared by public notice to be open for inspection.

145. (1) A new assessment list shall ordinarily be prepared, in the manner prescribed by sections 141 to 144, once in every five years. Revision and duration of list.

(2) Subject to any alteration or amendment made under section 147 and to the result of any appeal under section 160, every valuation and assessment entered in a valuation list shall be valid from the date on which the list takes effect in the municipality and until the first day of the April next following the completion of a new list.

146. An entry in an assessment list shall be conclusive proof,— Conclusiveness of entries in list.

- (a) for any purpose connected with a tax to which the list refers, of the amount leviable in respect of any building or land during the period to which the list relates, and
- (b) for the purpose of assessing any other municipal tax, of the annual value of any building or land during the said period.

147. (1) The board may at any time alter or amend the assessment list— Amendment and alteration of list.

- (a) by entering therein the name of any person or any property which ought to have been entered or any property which has become liable to taxation after the authentication of the assessment list; or
- (b) by substituting therein for the name of the owner or occupier of any property the name of any other person who has succeeded by transfer or otherwise to the ownership or occupation of the property; or
- (c) by enhancing the valuation of, or assessment on, any property which has been incorrectly valued or assessed by reason of fraud, misrepresentation or mistake; or
- (d) by re-valuing or re-assessing any property the value of which has been increased by additions or alterations to buildings; or
- (e) where the percentage on the annual value at which any tax is to be levied has been altered by the board under the

provisions of section 136, by making a corresponding alteration in the amount of tax payable in each case; or

(f) by reducing, upon the application of the owner, the valuation of any building which has been wholly or partly demolished or destroyed; or

(g) by correcting any clerical or arithmetical error.

(2) Provided that the board shall give at least one month's notice to any person interested of any alteration which the board proposes to make under clause (a), (b), (c), or (d) of sub-section (1) and of the date on which the alteration will be made.

(3) The provisions of sub-sections (2) and (3) of section 143 applicable to the objections thereunder mentioned shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any application made under clause (f) of sub-section (1).

(4) Every alteration made under sub-section (1) shall be authenticated by the signature or signatures of the person or persons authorized by section 144 and, subject to the result of an appeal under section 160, shall take effect from the date on which the next instalment falls due.

Obligation to supply information for purposes of amendment.

**148.** (1) When a building is built, re-built or enlarged, the owner shall give notice thereof to the board within fifteen days from the date of completion of such building, re-building or enlargement, or from the date of the occupation of such building whichever date happens first.

(2) Any person failing to give the notice required by sub-section (1) shall be punished upon conviction with a fine which may extend to fifty rupees or ten times the amount of the tax payable on the said building or enlargement for a period of three months, whichever is greater.

Liability for payment of certain taxes on annual value.

**149.** (1) <sup>1</sup>[Except when otherwise provided by rule] every tax (other than a scavenging tax or tax for the cleansing of latrines and privies) on the annual value of buildings or lands or of both shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Secretary of State in Council or from the board, or on a building lease from any person.

(2) In any other case the tax shall be primarily leviable as follows, namely:—

- (a) if the property is let, from the lessor;
- (b) if the property is sublet, from the superior lessor;
- (c) if the property is unlet, from the person in whom the right to let the same vests.

<sup>1</sup> These words were inserted by s. 12 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

(3) On failure to recover any sum due on account of such tax from the person primarily liable, the board may recover from the occupier of any part of the buildings or lands in respect of which it is due, that portion thereof which bears to the whole amount due the same ratio as the rent annually payable by such occupier bears to the aggregate amount of rent payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under the foregoing provisions, shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable.

**150.** (1) A scavenging tax, or a tax for the cleansing of latrines and privies, on the annual value of buildings or lands or of both, shall be levied from the actual occupier of the property upon which the taxes are assessed. Liability for payment of other such taxes.

(2) Provided that, where such property is let to more occupiers than one, the board may at its option levy the tax from the lessor instead of from the actual occupiers.

(3) A lessor from whom a tax is levied under sub-section (2) may, in the absence of a contract to the contrary, recover the tax from any or all of the actual occupiers.

**151.** (1) In a municipality other than one situated wholly or partly in a hilly tract, when a building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the board shall remit or refund so much of the tax of that year as may be proportionate to the number of days that the said building or land has remained vacant and unproductive of rent. Remission by reason of non-occupation.

(2) When in any such municipality a building consists of separate tenements one, or more than one, of which has remained vacant and unproductive of rent for any such period as aforesaid, the board may remit or refund such portion (if any) of the tax or instalment as is prescribed by rule.

(3) Provided that no remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the board and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(4) The burden of proving the facts entitling a person to relief under this section shall be upon him.

(5) For the purposes of this section a building or land shall not be deemed vacant, if maintained as a pleasure resort or town or country house, or be deemed unproductive of rent, if let to a tenant

who has a continuing right of occupation thereof, whether he is in actual occupation or not.

Obligation to give notice of re-occupation.

**152.** The owner of a building or land for which a remission or refund of the tax has been given under the last preceding section, shall give notice of the re-occupation of such building or land within fifteen days of such re-occupation.

(2) Any owner failing to give the notice required by sub-section (1) shall be punished upon conviction with a fine which shall not be less than twice the amount of tax payable on such building or land for the period during which it has been re-occupied without notice, and which may extend to fifty rupees or to ten times the amount of the said tax, whichever sum is the greater.

*Collection, Composition, Exemption, and other matters relating to Taxation.*

Rules as to assessment, collection, and other matters.

**153.** The following matters shall be regulated and governed by rules except in so far as provision therefor is made by this Act, namely—

- (a) the assessment, collection or composition of taxes and, in the case of octroi, the determination of octroi limits;
- (b) the prevention of evasion of taxes.
- (c) the system on which refunds shall be allowed and paid;
- (d) the fees for notices demanding payments on account of a tax and for the execution of warrants of distress;
- (e) the rates to be charged for maintaining live-stock distrained; and
- (f) any other matter relating to taxes in respect of which this Act makes no provision or insufficient provision and provision is in the opinion of the Local Government necessary.

Power to fix octroi limits.

**154. (1)** When a cantonment authority, with the sanction of the Governor General in Council, has agreed with the board of an adjoining municipality that the same octroi limits shall be established for the cantonment and the municipality, and that octroi collections and charges shall be divided between the cantonment fund and the municipal fund, the octroi limits fixed by rule shall include so much both of the cantonment and of the municipal area as the Local Government deems necessary.

(2) The board shall have the same powers of collecting octroi on animals or goods brought within such limits, and the provisions of this Act relating to octroi shall apply in the same way, as if such limits were wholly within the municipality.

Penalty for evasion of octroi dues.

**155.** A person introducing or attempting to introduce within octroi limits, or abetting the introduction within octroi limits of, any goods



or animals liable to the payment of octroi for which the octroi due on introduction has neither been paid nor tendered, shall be punished with a fine which may extend either to ten times the value of such octroi or to fifty rupees, whichever is greater and which shall not be less than twice the value of such octroi.

156. (1) Subject to the provisions of any rule, a board may by a special resolution confirmed by the Commissioner provide that all or any persons may be allowed to compound for a tax. Composition.

(2) Every sum due by reason of the composition of a tax under subsection (1) shall be recoverable in the manner provided by Chapter VI.

157. (1) A board may exempt, for a period not exceeding one year, from the payment of a tax, or any portion of a tax, imposed under this Act any person who is in its opinion, by reason of poverty, unable to pay the same, and may renew such exemption as often as it deems necessary. Exemption.

(2) A board may, by a special resolution confirmed [by the Commissioner] exempt from the payment of a tax, or any portion of a tax, imposed under this Act any person or class of persons or any property or description of property.

(3) The Local Government may, by order, exempt from the payment of a tax, or any portion of a tax imposed under this Act any person or class of persons or any property or description of property.

158. (1) The board may, by written communication, call upon an inhabitant of the municipality to furnish such information as may be necessary in order to ascertain— Obligation to disclose liability.

(a) whether such inhabitant is liable to pay a tax imposed under this Act;

(b) at what amount he should be assessed;

(c) the annual value of the building or land which he occupies and the name and address of the owner.

(2) If an inhabitant so called upon to furnish information omits to furnish it, or furnishes information which is untrue, he shall be liable upon conviction to a fine which may extend to one hundred rupees.

159. Subject to the conditions and restrictions specified in subsection (2) of section 287, the chairman, the executive officer and, if authorized in this behalf by resolution, any other member, officer or servant of the board, may enter, inspect, and measure a building for the purposes of valuation, or enter and inspect a stable, coach-house or Powers of discovery.

\* These words were substituted for the words "by the Local Government in the case of cities and by the Commissioner in other cases," by s. 13 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

other place wherein there is reason to believe that there is a vehicle or animal liable to taxation under this Act.

*Appeals against Taxation.*

Appeal relating to taxation.

**160.** (1) In the case of a tax assessed upon the annual value of buildings or lands or both an appeal against an order passed under sub-section (3) of section 143 or under sub-section (3) of section 147, and in the case of any other tax, an appeal against an assessment, or any alteration of an assessment, may be made to the District Magistrate or to such other officer as may be empowered by the Local Government in this behalf.

(2) Provided that when the District Magistrate or such other officer as aforesaid is a member of a board the appeal shall lie to the Commissioner.

Limitation and preliminary deposit of tax claimed.

**161.** No such appeal shall be heard and determined unless—

- (a) the appeal is, in the case of a tax assessed on the annual value of buildings or lands or both, brought within thirty days next after the date of communication of the order (exclusive of the time requisite for obtaining a copy thereof), and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment if no notice has been given, within thirty days next after the date of the first demand under the assessment or alteration of assessment, and
- (b) the amount claimed from the appellant has been deposited by him in the municipal office.

Reference to High Court.

**162.** (1) If, during the hearing of an appeal under section 160, a question as to the liability to, or the principle of assessment of, a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of a person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the High Court.

(2) On reference being made under sub-section (1) the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule of the Code of Civil Procedure, 1908,<sup>1</sup> V of 1908. or such other rules as are made by the High Court under section 122 of that Code.

Costs.

**163.** (1) In every appeal the costs shall be in the discretion of the officer deciding the appeal.

<sup>1</sup> Genl. Acts, Vol. VI.

(2) Costs awarded under this section to the board shall be recoverable by the board in the manner provided by Chapter VI.

(3) If the board fail to pay costs awarded to an appellant within ten days after the date of the communication to the board of the order for payment thereof, the officer awarding the costs may order the persons having the custody of the balance of the municipal fund to pay the amount.

164. (1) No objection shall be taken to a valuation or assessment, nor shall the liability of a person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Act

Bar to jurisdiction of civil and criminal courts in matters of taxation.

(2) The order of the appellate authority confirming, setting aside or modifying an order in respect of valuation or assessment or liability to assessment or taxation shall be final; provided that it shall be lawful for the appellate authority, upon application or on his own motion, to review any order passed by him in appeal by a further order passed within three months from the date of his original order.

#### *Formal defect in Assessments and Demands.*

165. No assessment list or other list, notice, bill or other such document specifying, or purporting to specify, with reference to any tax, charge, rent or fee, any person, property, thing or circumstance shall be invalid by reason only of a mistake in the name, residence, place of business or occupation of the person or in the description of the property, thing or circumstance, or by reason of any mere clerical error or defect of form; and it shall be sufficient that the person, property, thing or circumstance is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

Savings

## CHAPTER VI.

### RECOVERY OF CERTAIN MUNICIPAL CLAIMS.

166. (1) As soon as a person becomes liable for the payment of—

Presentation of bill.

- (a) any sum on account of a tax, other than an octroi or toll or any similar tax payable upon immediate demand, or
- (b) any sum payable under clause (c) of section 196 or section 229 or section 230 in respect of the supply of water, or payable in respect of any other municipal service or undertaking, or

- (c) any other sum declared by this Act or by rule to be recoverable in the manner provided by this chapter,

the board shall, with all convenient speed, cause a bill to be presented to the person so liable.

(2) Unless otherwise provided by rule, a person shall be deemed to become liable for the payment of every tax and licence fee upon the commencement of the period in respect of which such tax or fee is payable.

Contents of  
bill.

**167.** Every such bill shall specify—

- (a) the period for which, and the property, occupation, circumstance or thing in respect of which the sum is claimed, and
- (b) the liability or penalty enforceable in default of payment, and
- (c) the time (if any) within which an appeal may be preferred as provided in section 161.

Notice of  
demand.

**168.** If the sum for which a bill has been presented as aforesaid is not paid into the municipal office, or to a person empowered by a regulation to receive such payments, within fifteen days from the presentation thereof, the board may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form set forth in Schedule IV, or to the like effect.

Issue of  
warrant.

**169.** (1) If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

- (a) pay the sum demanded in the notice, or
- (b) show cause to the satisfaction of the board or of such officer as the board by regulation may appoint in this behalf, or, where, there is an executive officer, of the executive officer, as the case may be, why he should not pay the same,

such sum with all costs of the recovery may be recovered under a warrant caused to be issued by the board in the form of Schedule V, or to the like effect, by distress and sale of the moveable property of the defaulter.

(2) Every warrant issued under this section shall be signed by the chairman of the board, or by an officer to whom the board has delegated its powers by regulation or by the executive officer, if any.

Forcible  
entry for  
purpose of  
executing

**170.** (1) It shall be lawful for a municipal officer to whom a warrant issued under section 169 is addressed, to break open, at any time between sunrise and sunset, any outer or inner door or window of a

building, in order to make the distress directed in the warrant, in the warrant. following circumstances and not otherwise—

- (a) if the warrant contains a special order authorizing him in this behalf, and
- (b) if he has reasonable grounds for believing that the building contains property which is liable to seizure under the warrant, and
- (c) if, after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance.

(2) Provided that such officer shall not enter or break open the door of an apartment appropriated for women, until he has given any women therein an opportunity to withdraw.

171. (1) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property of the person therein named as defaulter, subject to the provisions of sub-sections (2) and (3). Manner of executing warrant.

(2) The following property shall not be distrained:—

- (a) the necessary wearing apparel and bedding of the defaulter, his wife, and children,
- (b) the tools of artizans,
- (c) books of account,
- (d) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable him to earn his livelihood.

(3) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which in the opinion of a person authorized by or under sub-section (2) of section 169 to sign a warrant, should not have been so distrained, they shall forthwith be returned.

(4) The officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form of Schedule VI that said property will be sold as shall be specified in such notice.

172. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be recovered is likely to exceed its value, the chairman, or other officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid. Sale of goods under warrant, and application of proceeds.

(2) If not sold at once under sub-section (1), the property seized, or a sufficient portion thereof, may, on the expiration of the time specified in the notice served by the officer executing the warrant, be sold by public auction under the orders of the board, unless the warrant is suspended by the person who signed it or the sum due from the defaulter is paid together with all costs incidental to the notice, warrant, and distress and detention of the property.

(3) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person from whose possession the property was taken, but, if the same be claimed by written application to the board within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the board.

Procedure  
in case of  
execution  
against pro-  
perty outside  
municipality.

**173.** (1) If no sufficient moveable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the municipality, the District Magistrate may, on the application of the board, issue his warrant to an officer of his Court—

- (a) for the distress and sale of any moveable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or
- (b) for the distress and sale of any moveable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within the United Provinces.

(2) In the case of action being taken under clause (b) of sub-section (1), the other magistrate shall endorse the warrant so issued, and cause it to be executed, and any amount recovered to be remitted to the magistrate issuing the warrant, who shall remit the same to the board.

Fees and  
costs.

**174.** Fees for—

- (a) every notice issued under section 168,
- (b) every distress made under section 171, and
- (c) the costs of maintaining any live-stock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in rules made by the Local Government, and shall be included in the costs of recovery to be levied under section 169.

Savings.

**175.** No distress or sale made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of an error, defect, or want of form in the bill, notice, warrant of distress, inventory or other proceeding relating thereto.

176. Instead of proceeding by distress, and sale, or in case of failure to realize thereby the whole or any part of the demand, the board may sue the person liable to pay the same in any Court of competent jurisdiction.

177. All sums due on account of a tax imposed on the annual value of buildings or lands or of both shall, subject to the prior payment of the land revenue (if any) due to His Majesty thereupon, be a first charge upon such buildings or lands.

Alternative power of bringing suit.  
Liability of immoveable property for taxes.

## CHAPTER VII.

POWERS AND PENALTIES IN RESPECT OF BUILDINGS, PUBLIC DRAINS, STREETS, EXTINCTION OF FIRES, SCAVENGING AND WATER-SUPPLY.

### *Building Regulations.*

178. (1) Before beginning, within the limits of the municipality—

- (a) to erect a new building or new part of a building, or
- (b) to re-erect, or make a material alteration in, a building, or
- (c) to make or enlarge a well,

Notice of intention to erect building or make well.

a person shall give notice of his intention to the board.

(2) The notice referred to in sub-section (1) as required in the case of a building shall only be necessary where the building abuts on, or is adjacent to a public street or place, or property vested in His Majesty or in the board, unless, by a byelaw applicable to the area in which the building is situated, the necessity of giving notice is extended to all buildings.

(3) An alteration in a building shall, for the purposes of this chapter and of any byelaw, be deemed to be material, if—

- (a) it affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation, or hygiene, or
- (b) it increases or diminishes the height of, area covered by or cubical capacity of the building or reduces the cubical capacity of any room in the building below the minimum prescribed in any byelaw, or
- (c) it converts into a place for human habitation a building or part of a building originally constructed for other purposes, or
- (d) it is an alteration declared by a byelaw made in this behalf to be a material alteration.

Plans and specifications required to validate notice.

**179.** (1) Where a byelaw has been made prescribing and requiring any information and plans in addition to a notice, no notice under section 178 shall be considered to be valid until the information, if any, required by such byelaw has been furnished to the satisfaction of the board.

(2) In any other case, the board may, within one week of the receipt of the notice required by section 178, require a person who has given such notice to furnish a plan and specification of any existing or proposed building, or part of a building, or well, together with a site plan of the land, with such reasonable details as the board may prescribe in its requisition; and, in such case, the notice shall not be considered to be valid until such plans and specification have been furnished to the satisfaction of the board.

Sanction of work by board.

**180.** (1) Subject to the provisions of any byelaw; the board may either refuse to sanction any work of which notice has been given under section 178 or may sanction it absolutely or subject to—

- (a) any written directions that the board deems fit to issue in respect of all or any of the matters mentioned in sub-head (h) of heading A of section 298, or
- (b) a written direction requiring the setback of the building or part of a building to the regular line of the street prescribed under section 222, or, in default of any regular line prescribed under that section, to the line of frontage of any neighbouring building or buildings.

(2) In the case of a refusal to sanction under sub-section (1), the board shall communicate in writing the reasons for such refusal to the person giving notice under section 178.

(3) Should the board neglect or omit for one month after the receipt of a valid notice under section 178 to make and deliver to the person who has given such notice an order of the nature specified in sub-section (1) in respect thereof, such person may by a written communication call the attention of the board to the omission or neglect, and, if such omission or neglect continues for a further period of fifteen days, the board shall be deemed to have sanctioned the proposed work absolutely.

(4) Provided that nothing in sub-section (3) shall be construed to authorize any person to act in contravention of this Act or of any byelaw.

<sup>1</sup>[(5) No person shall commence any work of which notice has been given under section 178 until sanction has been given or deemed to have been given under this section.]

<sup>1</sup>[This sub-section was added by s. 14 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.]



**181.** (1) A sanction given or deemed to have been given by a board under the previous section shall be available for one year or for such lesser period as may be prescribed by byelaw. Duration of sanction.

(2) After the expiry of the said period the proposed work may not be commenced except in pursuance of a fresh sanction applied for and granted under the foregoing sections.

**182.** The chairman, the executive officer and, if authorized in this behalf by resolution, any other member, officer or servant of the board may at any time and without warning inspect any work in respect of which notice is required under section 178— Inspection of works requiring sanction.

(a) while under construction, or

(b) within one month of the receipt of a report that it has been completed or, in default of such report; at any time after completion.

**183.** Notwithstanding anything contained in section 125, a person giving notice under section 178 shall not be entitled to any compensation for damage or loss sustained by reason of an order passed by a board under section 180, unless— Compensation for damage sustained through order passed under section 180.

(a) the order is passed on some ground other than that the proposed work would contravene a byelaw or be prejudicial to the health or safety of the public or any person, or

(b) the order contains a direction of the nature specified in clause (b) of sub-section (1) of section 180, or

(c) the order is an order of refusal to sanction the re-erection of a building on the ground that it is unsuitable in plan or design to the locality, or is intended for a purpose unsuitable to the locality, or contravenes a byelaw under sub-head (f) of heading A of section 298.

**184.** (1) A sanction given or deemed to have been given under section 180 shall not, beyond exempting the person to whom the sanction is given or deemed to have been given from any penalty or consequence to which he would otherwise be liable under section 185, 186 or 222, confer or extinguish any right or disability, or operate as an estoppel or admission, or affect any title to property or have any other legal effect whatsoever. Effect of sanction.

(2) In particular such sanction shall not operate to relieve any person from the obligation imposed by section 209 to obtain separate sanction for any structure referred to therein.

**185.** Whoever begins, continues or completes the erection or re-erection of, or any material alteration in a building or part of building or the construction, or enlargement of a well without giving the Illegal erection or alteration of a building.

notice required by section 178, or in contravention <sup>1</sup>[of the provisions of section 180, sub-section (5) or] of an order of the board refusing sanction or any written directions made by the board under section 180 or any byelaw, shall be liable upon conviction to a fine which may extend to five hundred rupees.

Power of board to stop erection, and to demolish building erected.

**186.** The board may at any time by written notice direct the owner or occupier of any land to stop the erection, re-erection, or alteration of a building or part of a building or the construction or enlargement of a well thereon in any case where the board considers that such erection, re-erection, alteration, construction or enlargement is an offence under section 185 and may, in like manner, direct the alteration or demolition as it deems necessary of the building, part of a building, or the well, as the case may be.

### *Extinction of fire.*

Establishment and maintenance of fire brigade.

**187.** The board may establish and maintain a fire brigade and may provide any implements, machinery or means of communicating intelligence which it thinks necessary for the prevention and extinction of fire.

Power of fire brigade and other persons for suppression of fires.

**188.** (1) On the occasion of a fire in a municipality any magistrate, any member of the board, the executive officer, the engineer, or a secretary of the board, or any member of the fire brigade directing its operations and (if required so to do by a magistrate, a member of the board the executive officer, the engineer or a secretary of the board) any police officer above the rank of constable, may—

- (a) remove, or order the removal of, any person who by his presence interferences with or impedes the operations for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which a fire is burning;
- (c) for the purpose of extinguishing the fire, break into or through or pull down, or cause to be broken into or through or pulled down or used for the passage of hoses or other appliances, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;
- (e) call on the person in charge of a fire-engine to render such assistance as may be possible; and
- (f) generally take such measures as may appear necessary for the preservation of life or property.

<sup>1</sup> These words were inserted by s. 15 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

(2) No person shall be liable to pay damages for an act done by him under sub-section (1) in good faith.

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of a policy of insurance against fire.

*Public drains.*

**189.** (1) The board may construct, within or, subject to the provisions of sub-section (2) of section 120, outside the municipality, such drains as it thinks necessary for keeping the municipality properly cleansed and drained and may carry such drains through, across, or under any street or place, and, after reasonable notice in writing to the owner or occupier, into, through, or under any buildings or land. Construction of public drains.

(2) Provided that no drain shall be constructed within the limits of a cantonment without the approval of the Local Government and otherwise than with the concurrence of the General Officer Commanding the division in which such cantonment is situated or, in the event of such concurrence being withheld, the previous sanction of the Governor General in Council.

**190.** (1) The board may, from time to time, enlarge, lessen, alter the course of, cover in or otherwise improve a public drain and may discontinue, close up, or remove any such drain. Alteration of public drains.

(2) The exercise of the power conferred by sub-section (1) shall be subject to the condition that the board shall provide another and equally effective drain in place of any existing drain of the use of which any person is deprived by the exercise of the said power.

**191.** (1) The owner or occupier of a building or land within the municipality shall be entitled to cause his drains to empty into the drains of the board, provided that he first obtains the written permission of the board, and that he complies with such conditions consistent with any byelaw as the board prescribes as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the board and drains which are so vested. Use of public drains by private owners.

(2) Whoever, without the written permission of the board or in contravention of any byelaw or of any direction or condition made or imposed under sub-section (1), makes or causes to be made, or alters or causes to be altered, a connection of a drain belonging to himself or to some other person with a drain vested in the board, shall be liable upon conviction to a fine which may extend to fifty rupees, and the board may by written notice require such person to close, demolish, alter, re-make or otherwise deal with such connection as it deems fit.

Power of board to enforce drainage connection with public drain.

192. (1) When a building or land situated within one hundred feet of a public drain is at any time not drained to the satisfaction of the board by any or a sufficient drainage connection with such drain, the board may, by notice, require the owner or occupier of such building or land to make and maintain a drainage connection with the drain in such manner as the board, subject to the provisions of any byelaw, directs.

(2) The provisions of sections 306 to 312 (inclusive) shall apply to default in compliance with any such requisition notwithstanding that part of the land through which the said drainage connection is required to pass may not belong to the person so making default, unless he shall prove that the default was caused by the act of the owner or occupier of such last mentioned land, and he has made application to the board under section 193.

Power of private person to carry a drain through the land of another person.

193. (1) Any person desiring that an existing or proposed drain on his land shall be carried through, or under the building or land, or connected with the drain, of another person owning a building or land abutting on, or a drain connected with, a municipal drain may apply to the board.

(2) The board on receiving an application under sub-section (1) may call upon the other person to show cause, within a specified period, why the applicant's drain should not be carried through or under his building or land or connected with his drain.

(3) The board shall hear any objection made by such person if submitted within the specified period and, thereafter, if it considers that the drain or drainage connection should be made, shall record an order to this effect.

(4) The order shall set out in writing—

- (a) the period within which the parties shall come to an agreement as to the construction of the drain or drainage connection;
- (b) the period within which the drain or drainage connection shall be made;
- (c) the respective responsibilities of the parties concerned for the maintenance, repair, and cleansing of the drain or drainage connection when made; and
- (d) the sum (if any) payable, whether in the form of rent or otherwise, by the person making the application to the owner of the land, building or drain, as the case may be.

(5) If the sum awarded under clause (d) of sub-section (4) takes the form of a lump payment, the board may recover it in the manner provided by Chapter VI and pay any sum recovered to the person to whom

it is due. If a rent has been awarded, the person to whom it is due may recover it by suit in any Civil Court having jurisdiction.

(6) If the parties concerned fail to agree within the period specified in the order, or if the drain or drainage connection is not constructed within the period specified for its construction, the board may itself construct it and may recover the cost from the applicant in the manner provided by Chapter VI.

194. The owner of any land into, through, or under which a drain has been carried under the provisions of the preceding section may, at any time, with the written permission of the board and subject to such conditions as the board may impose, divert the drain at his own expense.

Right of owner to divert drain on his land

### *Scavenging and Cleansing.*

195. House-scavenging means the removal of filth, rubbish, ordure, or other offensive matter from the dustbin, privy, cesspool or other receptacle for such matter in or pertaining to a house or a building.

Definition of house-scavenging.

196. Subject to the provisions hereinafter contained with respect to the rights of customary sweepers and of agriculturists, the board may—

Adoption and relinquishment by board of house-scavenging, etc.

- (a) by public notice, undertake the house-scavenging of any houses or buildings or the cleansing of any latrines or privies in the municipality from a date not less than two months after issue of the notice;
- (b) after giving by public notice or otherwise not less than two months' notice to the parties concerned, relinquish an undertaking under clause (a);
- (c) on the application or with the consent of the occupier, at any time undertake the house-scavenging of a house or building or the removal of night-soil from any latrine or cesspool in any building or on any land or the removal of other offensive matter or rubbish from a building or land, on terms to be fixed by byelaw in this behalf; and
- (d) after giving not less than two months' notice to the occupier, relinquish an undertaking under clause (c).

197. (1) The occupier of a house or building affected by a notice issued under clause (a) of section 196 may, at any time after the issue thereof, apply to the board to exclude that house or building from the notice.

Objections to adoption.

(2) The board shall consider and pass orders upon such application within six weeks of the receipt thereof, and may by such order exclude such house or building from the notice.

(2) In deciding whether to exclude a house or building from the notice, the board shall consider, among other matters, the efficiency of the arrangements for house-scavenging made by the occupier.

Continuance of house-scavenging once adopted by board.

**198.** When the board has undertaken the house-scavenging of a house or building under section 196, it may continue to perform such house-scavenging, with or without the consent of the occupier for the time being of such house or building.

Powers of Municipal servants for house-scavenging.

**199.** The servants of the board employed in house-scavenging may, at all reasonable times, do all things necessary for the proper performance of any house-scavenging undertaken by the board.

Savings in favour of customary sweepers and of agriculturists.

**200.** Notwithstanding anything in section 196 the board shall not, except in accordance with the provisions of sections 201 and 202, •

(a) undertake the house-scavenging of a house or building in respect whereof a sweeper has a customary right to do such house-scavenging without the consent of the sweeper, or

(b) undertake the house-scavenging of a house or building occupied by an agriculturist who himself cultivates land within municipal limits or in a village contiguous therewith without the consent of the occupier.

Punishment of customary sweepers for negligence.

**201.** (1) Should a sweeper who has a customary right to do the house-scavenging of a house or building (hereinafter called the customary sweeper) fail to perform such house-scavenging in a proper way, the occupier of the house or building or the board may complain to a Magistrate.

(2) The Magistrate receiving such complaint shall hold an inquiry, and, should it appear to him that the customary sweeper has failed to perform the house-scavenging of the house or building in a proper way or at reasonable intervals, he may impose upon such sweeper a fine which may extend to ten rupees, and upon a second or any later conviction in regard to the same house or building, may also direct the right of the customary sweeper to do the house-scavenging of the house or building to be forfeited, and thereupon such right shall be forfeited.

Procedure in case of default by agriculturists.

**202.** (1) Should an agriculturist who himself cultivates land within municipal limits, or in a village contiguous therewith, fail to provide for the proper house-scavenging of a house or building occupied by him, the board may complain to a Magistrate.

(2) The Magistrate receiving the complaint shall hold an inquiry, and, should it appear to him that the agriculturist has not provided for the proper house-scavenging of the house or building, he may pass an order empowering the board to undertake the same, and thereupon the board shall be entitled to undertake such house-scavenging.

*Street Regulations.*

**203.** (1) Before beginning to lay out or make a street, a person shall give notice in writing of his intention to the board.

Notice of  
intention to  
lay out or  
make a  
street.

(2) Where a byelaw has been made prescribing and requiring information and plans in addition to a notice, no notice under sub-section (1) shall be considered to be valid until the information (if any) required by such byelaw has been furnished to the satisfaction of the board.

**204.** (1) Before passing an order on a notice submitted under section 203, the board may issue—

Postpone-  
ment of  
work and  
demand for  
particulars.

(a) an order directing that for a period therein specified, which shall not be longer than one month from the date of a such order, the intended work shall not be proceeded with, or

(b) an order requiring further particulars.

(2) No notice under section 203 shall be deemed valid until the further particulars (if any) required by an order under clause (b) of sub-section (1) have been furnished to the satisfaction of the board.

**205.** (1) The board may sanction the proposed street either absolutely or subject to such written directions as to level, means of drainage, direction and width as the board may deem fit to issue.

Sanction of  
street by  
board.

(2) Should the board neglect or omit for two months after the receipt of a valid notice under section 203 or, if an order has been issued under clause (a) of sub-section (1) of section 204, fail, within the period specified in such order, to make and deliver to the person who has given the notice an order of the nature specified in sub-section (1) in respect thereof, such person may by a written communication call the attention of the board to the omission, neglect, or failure, and, if such omission, neglect, or failure continues for a further period of one month, the board shall be deemed to have sanctioned the proposed street absolutely.

(3) Provided that nothing in sub-section (2) shall be construed to authorize any person to act in contravention of any provisions of this Act or of any byelaw.

**206.** (1) A sanction given or deemed to have been given by a board under section 205 shall be available for one year.

Duration of  
sanction.

(2) After the expiry of the said period the proposed street may not be commenced except in pursuance of a further sanction applied for and granted under the foregoing sections.

**207.** Whoever begins, continues, or completes the laying out or making of a street without giving the notice required by section 203 or in contravention of any written directions made by the board under section

Illegal  
making of a  
street.

205 or any byelaw or any provision of this Act shall be liable upon conviction to a fine which may extend to five hundred rupees.

Power of board to alter un-sanctioned street and demolish buildings thereon.

**208.** In any case where a board considers that any land is being or has been laid out as a street without the notice required by section 203, or in contravention of any written direction made by the board under section 205 or of any byelaw or provision of this Act, the board may, by a written notice, require the owner of the land to alter the street in such manner as it deems necessary and the owner or occupier of any building which is being or has been built on or along the street to alter or demolish such building.

Sanction of board to projections over streets and drains.

**209.** (1) Subject to any rules made by the Local Government prescribing the conditions for the sanction by a board of projections over streets or drains, a board may give written permission, where provision is made by a byelaw for the giving of such permission—

(a) to the owners or occupiers of buildings in or on streets to erect or re-erect open verandahs, balconies, or rooms to project over the street from any upper storey thereof, at such height from the surface of the street, and to such an extent beyond the line of the plinth or basement wall as are prescribed in such byelaws, and

(b) to the owner or occupier of any building or land to erect or re-erect any projection or structure so as to overhang, project into, or encroach on or over a drain in a street to such an extent, and in accordance with such conditions, as are in like manner prescribed.

(2) In giving permission, under clause (a) of sub-section (1), a board may prescribe the extent to which, and the conditions under which, any roofs, eaves, weather-boards, shop-boards, and the like may be allowed to project over such streets.

Penalty for construction of projections over streets or drains without permission.

**210.** Any person erecting or re-erecting any such projection, or structure as is referred to in section 209 without the permission thereby required or in contravention of any permission given thereunder shall be liable on conviction to a fine which may extend to two hundred and fifty rupees.

Power to remove encroachments and projections over streets and drains.

**211.** The board may, by notice, require the owner or occupier of a building to remove, or to alter a projection or structure overhanging, projecting into or encroaching on a street, or into, on or over any drain, sewer or aqueduct therein.

Provided that in the case of any such projection or structure lawfully in existence on or before the tenth day of March, 1900, the board shall make compensation for any damage caused by the removal or alteration, which shall not exceed ten times the cost of erection and demolition.



**212.** (1) When the board considers that in a street not being a public street, or in a part of such street, within the municipality it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof the board may by written notice require the owners of the land or buildings fronting adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

Power to require levelling, paving, etc., of a street.

(2) If such notice is not complied with during the time specified, the board may, if it thinks fit, execute the work, and may recover, in the manner provided by Chapter VI, the expenses incurred in doing so from the owners in default according to the frontage of their respective lands or buildings and in such proportion as may be decided by the board.

(3) The owner or owners of a street or a part of a street wherein any such work as is mentioned in sub-section (1) has been carried out may require the board to declare the street a public street in accordance with the procedure prescribed by section 221.

*Explanation.*—A requisition by the owners of the greater portion of a street or a part of a street shall, for the purposes of this sub-section, be deemed to be a requisition of all such owners.

**213.** (1) No person shall cut down any tree or cut off a branch of any tree, or erect or re-erect or demolish any building or part of a building or alter or repair the outside of any building, where such action is of a nature to cause obstruction, danger or annoyance, or risk of obstruction, danger or annoyance, to any person using a street, without the previous permission in writing of the board.

Power to require the protection of streets during erection of buildings, etc.

(2) The board may at any time by notice require that any person doing or proposing to do any of the acts referred to in sub-section (1), shall refrain from beginning or continuing the act unless he puts up, maintains, and provides from sunset to sunrise with sufficient lighting such hoardings or screens as are specified or described in the notice, and may further at any time by notice require the removal, within a time to be specified in the notice, of any screen or hoarding erected in anticipation or in pursuance of any of the said acts.

(3) Whoever contravenes the provisions of sub-section (1) shall be liable on conviction to a fine which may extend to fifty rupees and to a further fine which may extend to five rupees for every day on which contravention continues after the date of the first conviction.

**214.** The board may, by notice, require the owner or occupier of any land to cut or trim the hedges growing thereon and bordering on a street, or any branches of trees growing thereon which overhang a street and obstruct the same or cause danger.

Power to require trimming of hedges and trees.

Power to  
remove  
accidental  
obstructions.

**215.** When a private house, wall or other erection or anything fixed thereto or a tree shall fall down and obstruct a public drain or encumber a street, the board may remove such obstruction or encumbrance at the expense of the owner of the same and may recover such expense in the manner provided by Chapter VI, or may, by notice, require the owner to remove the same within a time to be specified in the notice.

Regulation  
of troughs  
and rain-  
water pipes  
affecting a  
street.

**216.** The board may, by notice require the owner or occupier of any building or land abutting on a street to put up and keep in good condition proper troughs and pipes for receiving and carrying off the water from the building or land, and for discharging the same in such manner as the board may think fit, so as not to inconvenience persons passing along the street.

Naming of  
streets and  
numbering  
of buildings.

**217.** (1) The board may—

- (a) cause a name or a new name to be given to a street, and
- (b) cause the name or the new name to be affixed to or marked on any building in such position as it thinks fit, or
- (c) require by a written notice the owner or occupier of any building to affix thereto a number plate or a new number plate of a pattern approved by the board or itself cause a number or a new number to be affixed to or marked on any building.

(2) Any person destroying, pulling down, defacing or altering any name or number or number plate affixed to or marked on a building under sub-section (1) or affixing to or marking on a building a different name or number, from that affixed or marked by or under the order of the board shall be liable on conviction to a fine which may extend to twenty-five rupees.

Power to  
attach  
brackets to  
buildings,  
etc.

**218.** (1) The board may erect upon any premises, or attach to the outside of any building, or to any tree—

- (a) posts, brackets or other supports for oil, gas, electric or other lamps,
- (b) posts, brackets or other supports for telegraph-wires telephone-wires or wires conducting electricity for locomotive purposes, or
- (c) shafts or pipes deemed necessary for the proper ventilation of drains and water-works.

(2) Provided that the erection or attachment of such supports, shafts and pipes shall not be effected in a manner to occasion injury or inconvenience and shall be subject, so far as may be, to any provisions of the Indian Telegraph Act, 1885, applying to the attachment, removal, or alteration of a telegraph line or posts.

*Public Streets.*

**219.** A board may—

- (a) lay out and make a new public street and construct tunnels and other works subsidiary to the same, and
- (b) widen, lengthen, extend, enlarge or otherwise improve any existing public street if vested in the board, and
- (c) turn, divert, discontinue or close any public street so vested, and
- (d) provide within its discretion building sites of such dimensions as it thinks fit to abut on or adjoin any public street made, widened, lengthened, extended, enlarged or improved by the board under clauses (a), (b) and (c) or by the Local Government, and
- (e) subject to the provisions of any rule prescribing the conditions on which property may be acquired by the board, acquire any land, along with the buildings thereon, which it considers necessary for the purpose of any scheme or work undertaken or projected in exercise of the powers conferred by the preceding clauses, and
- (f) subject to the provisions of any rule prescribing the conditions on which property vested in the board may be transferred, lease, sell or otherwise dispose of any property acquired by the board under clause (e) or any land used by the board for a public street and no longer required therefor, and in doing so impose any condition as to the removal of any building existing thereon, as to the description of any new building to be erected thereon, as to the period within which such new building shall be completed, and as to any other matter that it deems fit.

Power to construct, improve, and provide sites on public streets.

**220.** Notwithstanding any right or privilege previously acquired, accrued or enjoyed, in a municipality for which byelaws under sub-head (b) of heading E of section 298 have been made and are in force, no itinerant vendor, or any other person, shall be entitled to use or occupy any public street or place for the sale of articles or for the exercise of any calling or for the setting up of any booth or stall without the permission of the board given in accordance with such byelaws.

Use of public streets by vendors and other persons.

**221.** (1) A board may, at any time, and shall when required by requisition under sub-section (3) of section 212, by public notice posted up in a street that is not a public street, or in a part of such street, give information of its intention to declare the same a public street, and, unless within two months next after such notice has been so posted up the owner or owners of such street or such part of a street, or of the greater portion

Adoption of a street as a public street.

thereof, lodges or lodge objections at the municipal office, the board may, by further public notice posted up in such street, or such part, declare the same to be a public street.

(2) Any public notice required under sub-section (1) shall in addition to being posted up in the street be published in a local paper (if any) or in such other manner as the board thinks fit.

Power to regulate line of buildings on public streets.

**222.** (1) Whenever the board considers it expedient to define the general line of buildings on each or either side of any existing or proposed public street it shall give public notice of its intention to do so.

(2) Every such notice shall specify a period within which objections will be received.

(3) The board shall consider all objections received within the specified period and may then pass a resolution defining the said line, and the line so defined shall be called "the regular line of the street."

(4) Thereafter, it shall not be lawful for any person to erect, re-erect or alter a building or part of a building so as to project beyond the regular line of the street unless he is authorized to do so by a sanction granted under section 180 or by a permission in writing (and the board is hereby empowered to grant such permission) under this section.

(5) Any owner of land who is prevented by the provisions of this section from erecting, re-erecting, or altering any building on any land may require the board to make compensation for any damage which he may sustain by reason of such prevention, and upon the payment of compensation in respect of any land situated within the regular line of the street such land shall vest in the board.

(6) The board may, by notice, require the alteration or demolition of any building or part of a building erected, re-erected or altered in contravention of sub-section (4).

Duties of board when constructing public streets, etc.

**223.** (1) The board shall, during the construction or repair of a public street or of any water-works, drains or premises vested in it, or whenever any public street, water-works, drain or premises vested in it have, for want of repairs or otherwise, become unsafe for use by the public, take all necessary precautions against accident by—

- (a) shoring up and protecting adjacent buildings, and
- (b) fixing bars, chains or posts across or in any street for the purpose of preventing or diverting traffic during such construction or repair, and
- (c) guarding and providing with sufficient lighting from sunset to sunrise any work in progress.

(2) Whoever, without the authority or consent of the board, in any way interferes with any arrangement or construction made by the board

under sub-section (1) for guarding against accident shall be liable on conviction to a fine which may extend to fifty rupees.

*Water-supply.*

224. The board may—

- (a) construct water-works within or, subject to the provision of sub-section (2) of section 120, outside the municipality, and may carry such works through, across, over, or under any street or place, and, after reasonable notice in writing to the owner or occupier, into, through, over, or under any buildings or land, and
- (b) from time to time enlarge, lessen, alter the course of, cover in or otherwise improve any water-works and discontinue, close up, or remove the same.

Power of board to construct and alter water-works.

225. (1) The board may, by notice, require the owner of, or the person having control over, a private water-course, spring, tank, well or other place, the water of which is used for drinking, to keep and maintain the same in good repair and to clean the same, from time to time, of cilt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as the board may think fit.

Power to require private water-course, etc., to be cleansed or closed.

(2) When the water of any such water-course, spring, tank, well or other place is proved to the satisfaction of the board to be unfit for drinking, the board may, by notice, require the owner or person having control thereof to desist from so using such water or permitting others to so use it, and if, after such notice, such water is used by any person for drinking the board may, by notice, require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such water-course, spring, tank, well or other place in such manner as it may direct, so that the water thereof may not be so used.

226. In the event of a municipality, or any part thereof, being visited with an outbreak of cholera or other infectious disease notified in this behalf by the Local Government, the chairman of the board, or any person authorized by him in this behalf, may, during the continuance of the epidemic, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purpose of drinking, and may, further, take such steps as he deems fit to prevent the removal of water therefrom.

Emergent powers on outbreak of epidemic.

227. The board may, by notice, require an owner or occupier on whose land a drain, privy, latrine, urinal, cesspool, or other receptacle for filth or refuse exists within fifty feet of a spring, well, tank, reservoir or other

Removal of latrines, etc., near any source of

water-supply, source from which water is, or may be, derived for public use, to remove or close the same within one week from the service of such notice.

Obligations  
of board  
imposing  
water-tax.

**228.** (1) The board of every municipality in which a water tax is imposed shall be bound -

- (a) throughout a prescribed area or prescribed areas -
  - (i) to maintain a system of water supply through pipes, and
  - (ii) to lay on water at a prescribed pressure and during prescribed hours, and
  - (iii) to supply, in all the chief streets in which mains have been laid, water to stand-pipes or pumps situated at such intervals as are prescribed, and
- (b) to allow the owner or occupier of any building or land assessed to a prescribed minimum water tax to connect, for the purpose of obtaining water for domestic purposes, the building or land with a main by means of a communication pipe of the prescribed size and description, and
- (c) to supply, within every twenty-four hours, to every owner or occupier entitled to a house connection under clause (b) whose land or building is provided therewith, such amount of water as is prescribed with reference to the water tax payable by him and his estimated requirements for domestic purposes into a storage cistern erected in or on the building or land, of a capacity not less than such amount and of a prescribed pattern and at an altitude not exceeding the maximum prescribed for the same.

(2) The word "prescribed" in sub-section (1) means prescribed by rule under section 235.

Supply of  
water by  
agreement.

**229.** Every board may by agreement supply any owner or occupier of land with any water that he may require for any purpose for such remuneration, consistent with any rate or rates prescribed by rule, and on such terms and conditions consistent with this Act and with any rule, as are agreed on between the board and such owner or occupier.

Charges for  
water-supply.

**230.** (1) When any building or land is connected with a main, the board may, so far as is consistent with any agreement made under section 229, charge the owner, lessor or occupier, whichever is prescribed by rule, for all water consumed at the rate or rates so prescribed.

(2) Provided that the board shall deduct from the charge on account of water supplied in any month one-twelfth of the water tax assessed on the building or land.

**231.** Notwithstanding any obligation imposed on a board by section 228 or by any agreement made under section 229, a board shall not be liable to any forfeiture, penalty or damages for failure to supply water, if the failure to supply arises from accident or from unusual drought or other unavoidable cause.

*Exemption of board from liability owing to accident, etc.*

**232.** Notwithstanding any obligation to supply water imposed by an agreement under section 229, the board may, at any time, cease to supply water for other than domestic purposes, if it is of the opinion that such supply would interfere with the supply of water for domestic purposes, and in such case the board shall not be liable to any forfeiture, penalty or damages for so ceasing—

*Subordination to supply for domestic purposes of other purposes.*

- (a) unless the failure to supply such water arises from a cause other than one specified in section 231, and
- (b) unless the board has undertaken to supply water for other than domestic purposes by an agreement made under section 229 making express provision for forfeiture, penalty or damages upon failure to supply such water.

**233.** Notwithstanding anything contained in section 228, or in any agreement under section 229, the supply of water to any building or land shall be, and shall be deemed to have been granted, subject to the provisions of any rule made under section 235, and in particular to any provision as to the limit or stoppage of the supply, and as to the prevention of waste and misuse.

*Subordination of rights of supply to restrictive rules.*

**234.** All meters, connection pipes and other works incidental to the supply of water to any building or land shall, except as otherwise provided by rule, be supplied, repaired, extended and altered as may be necessary, at the expense of the person requiring the supply, but shall be under the control of the board.

*Provision as to meters and connection pipes.*

**235.** (1) The following matters relating to the supply of water from municipal or public water-works shall be regulated and governed by rules, namely:—

*Water supply rules*

- (a) any matter in respect of which this Act declares that provision shall be made by rule;
- (b) the size and nature of the mains and pipes to be laid and the water-works to be constructed by a board for the supply of water;
- (c) the construction, control and maintenance of municipal water-works and of pipes and fittings in connection therewith;
- (d) the size and nature of the stand-pipes or pumps to be erected by a board;

- (e) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;
- (f) the periodical analysis by a qualified analyst of the water supplied by a board;
- (g) the conservation and prevention of injury or contamination to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the municipality;
- (h) the manner in which connection with water-works may be constructed or maintained and the agency which shall or may be employed for such construction or maintenance;
- (i) the regulation of all matters and things connected with the supply and use of water and the turning on and turning off and preventing the waste of water;
- (j) the collection of water-tax and of charges relating to the supply of water and the prevention of evasion of the same; and
- (k) any other matter relating to the supply of water in respect of which this Act makes no provision or insufficient provision and further provision is, in the opinion of the Local Government, necessary.

(2) Provided that no rules shall be made under sub-section (1) affecting a cantonment or part of a cantonment without the previous sanction of the Governor General in Council.

*Power for removal of structures interfering with public works.*

Unauthorized  
construction  
or tree over  
drain or  
water-work.

**236.** (1) Where, on or after the 10th day of March, 1900, any street has been made or any building wall or other structure has been erected or any tree has been planted without the permission in writing of the board over a public drain or culvert or a water-work vested in the board, the board may—

- (a) by notice require the person who has made the street, erected the structure or planted the tree, or the owner or occupier of the land on which the street has been made, structure erected or tree planted to remove or deal in any other way the board thinks fit with the street, structure or tree; or
- (b) itself remove or deal in any other way it thinks fit with the street, structure or tree.

(2) Any expense incurred by a board by action taken under clause (b) of section (1) shall be recoverable in the manner prescribed by Chapter VI from the person by whom the street was made, structure erected or tree planted.



## CHAPTER VIII.

## OTHER POWERS AND PENALTIES.

*Markets, Slaughter-houses, Sale of Food, etc.*

**237.** (1) The board may, with the approval of the District Magistrate, Places for slaughter of animals fix premises, either within or without the limits of the municipality, for the slaughter of animals, or animals of any specified description, for sale, for sale. and may, with the like approval, grant and withdraw licences for the use of such premises.

(2) When such premises have been fixed by the board beyond municipal limits, it shall have the same power to make byelaws for the inspection and proper regulation of the same as if they were within those limits.

(3) When such premises have been fixed, no person shall slaughter any such animal for sale at any other place within the municipality.

(4) Should any one slaughter for sale any such animal at any other place within the municipality, he shall be liable on conviction to a fine which may extend to twenty rupees for every animal so slaughtered.

**238.** The board may, by public notice, and with the previous sanction of the District Magistrate, fix premises within the municipality in which the slaughter of animals of any particular kind not for sale shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within the municipality: Places for slaughter of animals not intended for sale or slaughtered for religious purpose.

Provided that the provisions of this section shall not apply to animals slaughtered for any religious purpose.

**239.** Whenever it appears to the District Magistrate to be necessary for the preservation of the public peace or order, he may, subject to the control of the Commissioner, prohibit or regulate, by public notice, the slaughter within the limits of a municipality of animals or animals of any specified description, for purposes other than sale, and prescribe the mode and route in and by which such animals shall be brought to, and meat shall be conveyed from, the place of slaughter. Powers of District Magistrate in respect of animals not slaughtered for sale.

**240.** Should the flesh of any cattle, sheep, goat or swine be brought within municipal limits in contravention of a bye-law made under sub-head (e) of heading F of the section 298, it may be seized by an officer of the board authorized in that behalf, and may be destroyed or otherwise disposed of as the board may by general or special order direct. Disposal of flesh imported in contravention of a byelaw regulating importation.

**241.** (1) The right of any person to use any place, within the limits of a municipality, other than a municipal market, as a market or shop for the sale of animals, meat or fish intended for human food, or as a market for the sale of fruit or vegetables shall be subject to byelaws (if any) made under heading F of section 298. Licensing of markets and shops for sale of certain articles.

(2) Provided that, where any byelaw is in force requiring a licence for the establishment or maintenance of a market or shop for the sale of any article mentioned in sub-section (1), the board shall not—

(a) refuse a licence for the maintenance of a market or shop lawfully established at the date of such byelaw coming into force, if application be made within six months from such date, except on the ground that the place where the market or shop is established fails to comply with any conditions prescribed by, or under, this Act, or

(b) cancel, suspend or refuse to renew any licence granted under such byelaw for any cause, other than the failure of the licensee to comply with the conditions of the licence or with any provision of, or made under, this Act.

Improper feeding of animals kept for dairy purposes or used for food.

**242.** Whoever feeds, or allows to be fed, an animal which is kept for dairy purposes, or may be used for food, on filthy or deleterious substances, shall be liable on conviction to a fine which may extend to fifty rupees.

Inspection of places for sale of food, drink and drugs.

**243.** The chairman, the executive officer and, if authorized in this behalf by resolution, any other member, officer or servant of the board may, without notice, at any period of the day or night, enter into and inspect a market, shop, stall or place used for the sale of food or drink for man, or, as a slaughter-house, or for the sale of drugs, and inspect and examine any article of food or drink, or any animal or drug which may be therein.

Seizure of unwholesome articles and removal of deleterious and spent drug

**244.** (1) If, in the course of the inspection of a place under the preceding section, an article of food or drink or an animal appears to be intended for the consumption of man and to be unfit therefor, the board may seize and remove the same, or may cause it to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such consumption.

(2) If it is reasonably suspected that a drug has been improperly adulterated, or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, or to change its operation, or to render it noxious, the board may remove the same, giving a receipt therefor, and may produce it before a Magistrate.

(3) If it appears to a Magistrate before whom a drug has been produced under sub-section (2) that the drug has been improperly adulterated or has become inert, unwholesome or deteriorated as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit, and if any offence appears to have been committed he may proceed to take cognizance thereof.

*Nuisance from certain Trades and Professions.*

**245.** (1) If it is shown to the satisfaction of a board that any building or place within the limits of the municipality which any person uses or intends to use as a factory or other place of business for the manufacture, storage, treatment or disposal of any article, by reason of such use, or by reason of such intended use, occasions or is likely to occasion a public nuisance, the board may at its option require by notice the owner or occupier of the building or place—

Regulation  
of offensive  
trades.

- (a) to desist or refrain, as the case may be, from using, or allowing to be used, the building or place for such purpose, or
- (b) only to use, or allow to be used, the building or place for such purpose under such conditions or after such structural alterations as the board imposes or prescribes in the notice with the object of rendering the use of the building or place for such purpose free from objection.

(2) Whoever, after receiving a notice given under sub-section (1), uses or allows to be used any building or place in contravention of the notice shall be liable on conviction to a fine which may extend to two hundred rupees and to a further fine which may extend to forty rupees for every day on which he so uses or allows to be used the place or building after the date of the first conviction.

(3) The Local Government may by notification make the provisions of this section, or of any byelaw made under heading G of section 298, applicable to any area beyond the municipality lying within a distance of a mile from the municipal boundary.

**246.** Whoever, in a street or public place within the limits of the municipality, loiters for the purpose of prostitution, or importunes a person to the commission of sexual immorality, shall be liable on conviction to a fine which may extend to fifty rupees:

Loitering  
and soliciting  
for immoral  
purpose.

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or on the complaint of a municipal officer or a police officer not below the rank of a sub-inspector respectively authorized in this behalf in writing by the board and the District Magistrate.

**247.** (1) When a Magistrate of the first class receives information—

Brothels,  
etc.

- (a) that a house in the vicinity of a place of worship or an educational institution or a boarding-house, hostel or mess used or occupied by students is used as a brothel or for the purpose of habitual prostitution or by disorderly persons of any description, or
- (b) that any house is used as aforesaid to the annoyance of respectable inhabitants in the vicinity, or

- (c) that a house in the immediate neighbourhood of a cantonment is used as a brothel or for the purpose of habitual prostitution,

he may summon the owner, tenant, manager or occupier of the house to appear before him either in person or by agent; and if satisfied that the house is used as described in clause (a), clause (b) or clause (c) may by a written order direct such owner, tenant, manager or occupier, within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use:

Provided that action under this sub-section shall be taken only—

- (i) with the sanction or by the order of the District Magistrate, or
- (ii) on the complaint of three or more persons residing in the immediate vicinity of the house to which the complaint refers, or
- (iii) in the cases referred to in clauses (a) and (c) of this sub-section, on the complaint of the board.

(2) If a person against whom an order has been passed by a Magistrate under sub-section (1) fails to comply with such order within the period stated therein, the Magistrate may impose on him a fine which may extend to twenty-five rupees for every day after the expiration of the period during which the house is so used.

Begging.  
etc.

248. Whoever, in a street or public place within the municipality, begs importunately for alms, or exposes or exhibits, with the object of exciting charity, a deformity or disease or an offensive sore or wound, shall be liable on conviction to a fine which may extend to twenty rupees.

### *Public Safety.*

Disposal of  
mad dogs,  
etc.

249. The board may authorize any person to destroy or to cause to be destroyed, or to confine or to cause to be confined, for such period as the board may direct, any dog or other animal suffering, or reasonably suspected to be suffering, from rabies or, bitten by a dog or other animal suffering or suspected as aforesaid.

Muzzling  
order.

250. (1) Where in any municipality the prevalence of rabies in the opinion of the board renders it necessary, the board may by public notice require the muzzling, for such period as it thinks fit or until such notice is cancelled, of all dogs within the municipality, or within any part of the municipality.

(2) During such period or time the board may exercise the power conferred by section 249 in respect of any dog which is found at large without a muzzle after a date to be specified in the notice.

251. No damages shall be payable in respect of a dog or other animal destroyed or otherwise disposed of under the provisions of section 249 or 250 or of any byelaw made under sub-head (h) or (l) of heading H of section 298. Bar to compensation for dogs lawfully destroyed.

252. Whoever, in driving, leading or propelling a vehicle along a street, fails, except in the case of actual necessity,— Neglect of the rule of the road.

(a) to keep to the left, and

(b) when he is passing a vehicle going in the same direction, to keep to the right of that vehicle, shall be liable on conviction to a fine which may extend to ten rupees.

*Exception.*—This section shall not apply in the case of a municipality wholly or in part situated in a hilly tract.

253. Whoever drives, leads or propels a vehicle between nightfall and dawn in a street, unless the vehicle is properly supplied with lights, shall be liable on conviction to a fine which may extend to twenty rupees: Driving vehicles without proper lights.

Provided that a board may, by a special resolution confirmed by the Commissioner, direct that this section shall not apply in the case of vehicles proceeding at not more than a walking pace.

254. Whoever being in charge of an elephant, camel, or bear, omits, on being requested to do so, to remove so far as may be practicable his elephant, camel, or bear to a safe distance on the approach of a horse, whether ridden, driven or led, shall be liable on conviction to a fine which may extend to twenty rupees. Failure to remove elephant, etc., to safe distance.

255. (1) The owner or keeper of any cattle or other animals found tethered or straying about without a keeper, in a street or public place shall be liable on conviction to a fine which may extend to twenty rupees. Prohibition of tethering of cattle, etc., on street.

(2) An animal found tethered as aforesaid may be removed by a municipal officer or servant or by a police officer to a pound as if the animal had been found straying.

256. Where any land vested in the board is, without the permission in writing of the board, used as a halting place for any vehicle or animal or as a place of encampment, the owner or the keeper of the vehicle or animal or the person encamping as the case may be, shall be liable on conviction to a fine which may extend to twenty rupees, and in the case of a continuing breach to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the commission of the offence. Halting vehicles or animals on public ground.

257. (1) The board may, by public notice, direct that, within certain limits to be fixed by it, the roofs and external walls of huts or other Power as to inflammable structures.

buildings shall not be made or renewed with grass, mats, leaves, or other highly inflammable materials without the consent of the board in writing.

(2) The board may at any time by written notice require the owner of a building which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such reasonable time as shall be specified in the notice notwithstanding that a public notice under sub-section (1) has not been issued or that such roof or wall was made with the consent of the board or before the issue of such public notice, if any:

Provided that in the case of any such roof or wall in existence before the issue of such public notice or made with the consent of the board, the board shall make compensation for any damage caused by the removal which shall not exceed the original cost of constructing the roof or wall.

(3) Whoever, without such consent as is required by sub-section (1), makes or renews, or causes to be made or renewed, or in disobedience to a notice given under sub-section (2) suffers to remain, a roof or wall of such material as aforesaid, shall be liable on conviction to a fine which may extend to twenty-five rupees and to a further fine which may extend to ten rupees for every day on which the offence is continued, after the date of the first conviction.

Power to  
search for  
inflammable  
material in  
excess of  
authorized  
quantity.

258. (1) The board may, without notice and at any period of the day or night, enter into and inspect a house or building which is suspected to contain petroleum, or other inflammable material, in excess of the quantity permitted to be kept in such house or building under the provisions of section 245 or of any byelaw.

(2) Should any such excess quantity of such material be discovered it may be seized and held subject to such order as a Magistrate may pass with respect to it.

(3) If the Magistrate decide that the material seized was stored in the house or building contrary to any direction made under section 245 or to the provisions of any byelaw, he may pass an order confiscating the same.

(4) Subject to any provision of or made under this or any other enactment, the material so confiscated may be sold by order of the Magistrate, and the proceeds, after defraying the expenses of such sale, shall be credited to the municipal fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.

**259.** The board may, where it appears to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting wood, dry grass, straw or other inflammable materials, or from placing mats or thatched huts or lighting fires in a place or within limits specified in the notice. Stacking,  
etc., of  
inflammable  
materials.

**260.** (1) If, in the opinion of the board, the working of a quarry, or the removal of stone, earth or other material from the soil in any place is dangerous to persons residing in, or entitled to visit, the neighbourhood thereof, or creates, or is likely to create, a public nuisance, the board may, by written notice, prohibit the owner of the said quarry or place, or the person responsible for such working or removal, from continuing or permitting the working of such quarry or the removing of such material, or may require him to take such order with such quarry or place as the board shall direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom. Dangerous  
quarrying.

(2) If, in any case referred to in sub-section (1), it appears to the board to be necessary in order to prevent imminent danger, it may cause a proper hoarding or fence to be put up for the protection of passengers near a quarry or place, and any expense incurred by the board in taking such action shall be paid by the owner or other person as aforesaid, and shall be recoverable in the manner provided by Chapter VI.

**261.** (1) Whoever displaces, takes up, or makes an alteration in, or otherwise interferes with, the pavement, gutter, flags, or other materials of a public street, or the fences, walls or posts thereof, or a municipal lamp, lamp-post, bracket, direction-post, stand-post, hydrant, or other such municipal property therein, without the written consent of the board, or other lawful authority, and whoever extinguishes a municipal light shall be liable on conviction to a fine which may extend to one hundred rupees. Displacing  
pavements,  
etc.

(2) Any expense incurred by the board by reason of the doing of any such thing as is mentioned in sub-section (1) may be recovered from the offender in the manner provided by Chapter VI.

**262.** Whoever discharges fire-arms or lets off fire-works or fire balloons, or engages in a game, in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be liable on conviction to a fine which may extend to twenty rupees. Discharging  
fire-arms,  
etc.

**263.** (1) A board may require by notice the owner or occupier of any land or building— Powers for  
the preven-  
tion of  
danger

(a) to demolish or to repair in such manner as it deems necessary any building, wall, bank or other structure, or anything affixed thereto or to remove any tree, belonging to such from ruinous  
buildings,  
unprotected  
wells, etc

owner or in the possession of such occupier, which appears to the board to be in a ruinous condition or dangerous to persons or property, or

- (b) to repair, protect or enclose, in such manner as it deems necessary, any well, tank, reservoir, pool or excavation belonging to such owner or in the possession of such occupier, which appears to the board to be dangerous by reason of its situation, want of repair or other such circumstance.

(2) Where it appears to the board that immediate action is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the board itself to take such immediate action; and in such case, notwithstanding the provisions of section 287, it shall not be necessary for the board to give notice, if it appears to the board that the object of taking such immediate action would be defeated by the delay incurred in giving notice.

Power to prevent unoccupied buildings or lands becoming a nuisance.

**264.** The board may, by notice, require the owner of a building or land which, by reason of abandonment or disputed ownership or other cause, is unoccupied and has become a resort of idle and disorderly persons or otherwise occasions, or is likely to occasion, a public nuisance to secure and enclose the same within a reasonable time fixed in the notice.

Obstruction of street.

**265. (1)** Whoever without the written permission of the board—

- (a) causes or allows any vehicle, with or without an animal harnessed thereto, to remain or stand so as to cause obstruction in any street longer than may be necessary for loading or unloading or for taking up or setting down passengers; or
- (b) leaves or fastens any vehicle or animal so as to cause obstruction in any street; or
- (c) exposes any article for sale, whether upon a stall or both or in any other manner, so as to cause obstruction in any street; or
- (d) deposits, or suffers to be deposited, any building material, box, bale, package or merchandise in any street; or
- (e) erects or sets up any fence, rail, post, stall or any scaffolding or any other such fixture in any street; or
- (f) in any other manner wilfully obstructs or causes obstruction to the free passage of any street,

shall be liable upon conviction to a fine which may extend to fifty rupees.

(2) The board shall have power to remove any obstruction referred to in the sub-section (1), and the expense of such removal shall be recoverable from the offender in the manner provided by Chapter VI.



(3) The power exercisable by a board under sub-section (2) to remove obstructions from streets shall also be exercisable for the removal by the board of obstructions from any open space, whether vested in the board or not, which is not private property.

(4) Nothing contained in this section shall apply to any obstruction of a street permitted by the board under any section of this Act or any rule or byelaw made or licence granted thereunder.

**266.** Whoever, without the written permission of the board, digs up or removes earth, sand or other material from any open space, whether vested in the board or not, which is not private property, shall be liable upon conviction to a fine not exceeding fifty rupees, and, if the offence is a continuing offence, to a further fine not exceeding ten rupees for every day during which the offence continues after the date of the first conviction for such offence.

Digging up  
of public  
land.

*Sanitation and Prevention of Disease.*

**267.** (1) A board may require by notice the owner or occupier of any land or building—

Private  
drains,  
cesspools,  
dustbins,  
latrines,  
etc

(a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cess-pool, dustbin or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap door of any such latrine, urinal or water-closet which opens on to a street or drain; or

(b) to provide such latrines, urinals, water-closets, drains, cess-pools, dustbins or other receptacles for filth, sullage-water, rubbish or refuse as should in its opinion be provided for the building or land whether in addition or not to any existing ones; or

(c) to cause any latrine, urinal or water-closet provided for the building or land to be shut off by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood.

(2) When requiring under sub-section (1) anything to be provided, altered or done, the board may specify in the notice the description of the thing to be provided, the pattern so as to conform with which the thing is to be altered, and the manner in which the thing is to be done.

**268.** The board may require by notice any person employing more than twenty work-men or labourers or owning managing or having control of a market, school or theatre or other place of public resort to provide such latrines and urinals as it may deem fit, and to cause the same to be kept in proper order and to be daily cleansed :

Latrines  
for factories,  
schools and  
places of  
public  
resort

Provided that nothing in this section shall apply to a factory regulated by the 'Indian Factories Act, 1911.

XII of 1911.

Power to  
require  
removal  
of nuisance  
arising from  
tanks, etc.

**269.** (1) The board may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off a private well, tank, reservoir, pool, depression or excavation therein which may appear to the board to be injurious to health or offensive to the neighbourhood.

(2) Provided that the owner or occupier may require the board to acquire at its expense, or otherwise provide, any land or rights in land necessary for the purpose of effecting drainage ordered under sub-section (1).

Inspection  
of drains,  
privies, etc.

**270.** (1) Subject to the provisions of section 287, the board may inspect a drain, privy, water-closet, latrine, urinal, cess-pool or other receptacle for filth, and for that purpose may cause the ground to be opened where it thinks fit.

(2) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the board, unless the drain, privy, water-closet, latrine, urinal, cess-pool or other receptacle for filth is found to be in bad order or condition, or was constructed in contravention of any provisions of, or made under, this or any other enactment, in which case such expenses shall be paid by the owner or occupier and shall be recoverable in the manner provided by Chapter VI.

Cleansing of  
filthy  
buildings or  
land.

**271.** Should any building or land be in a filthy or unwholesome state, the board may, by notice, require the owner or occupier thereof to cleanse, or otherwise put in a proper state, the building or land, and thereafter to keep the same in a clean and proper state.

Failure to  
remove  
offensive  
matter.

**272.** Whenever on any building or land—

- (a) any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter is kept for more than twenty-four hours, or otherwise than in some proper receptacle, or
- (b) any receptacle for such things is suffered to be in a filthy or noxious state or is not subjected to any proper method of cleansing or purifying, the owner or occupier of the building or land shall be liable, on conviction, to a fine which may extend to fifty rupees and, in the case of a continuing breach, to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender has been proved to have persisted in the commission of the offence.

Regulation  
of the dis-  
posal of  
rubbish,  
night-soil,  
etc.

**273.** (1) The board may—

- (a) provide receptacles and places for the temporary deposit of offensive matter and rubbish;

- (b) appoint places for the disposal of night-soil, carcasses, and other offensive matters and rubbish; and
- (c) by public notice issue directions as to the time, manner and conditions at, in and subject to which any offensive matters or rubbish referred to in clauses (a) and (b) may be removed along a street, deposited or otherwise disposed of.

(2) It shall be sufficient notice of the appointment of a place under clause (b) of sub-section (1) that a notice board indicating such appointment is displayed on or near the place appointed.

(3) Before appointing a place outside the municipal limits under clause (b) of sub-section (1) the board shall obtain the previous sanction of the District Magistrate.

**274.** The occupier of any building or land from which any offensive matter, rubbish, night-soil or carcass is thrown or deposited on any part of a public place or street, or into any public sewer or drain, or into any drain communicating with a public sewer or drain, otherwise than in a place appointed under clause (b) or in a receptacle provided under clause (a) of sub-section (1) of section 273, and any person contravening any direction of a board issued under clause (c) of the said sub-section shall be liable upon conviction to a fine not exceeding twenty rupees.

Penalty for improper disposal of rubbish, night-soil, etc.

**275.** (1) Whenever an animal in the charge of a person dies, otherwise than by being slaughtered either for sale or consumption or for some religious purpose, the person in charge thereof shall, within twenty-four hours, either—

Disposal of dead bodies of animals.

- (a) convey the carcass to a place (if any) fixed by the board under section 273 for the disposal of the dead bodies of animals, or to a place beyond municipal limits not being within one mile of those limits, or

- (b) give notice of the death to the board, whereupon the board shall cause the carcass to be disposed of.

(2) Every person bound to act in accordance with sub-section (1) shall, if he fail so to act, be liable upon conviction to a fine which may extend to ten rupees.

(3) For the disposal of the dead body of an animal under clause (b) of sub-section (1) the board may charge such fee as the board has prescribed, and may recover the same, if not paid in advance, from the owner or keeper of the animal in the manner provided by Chapter VI.

**276.** Whenever the water of a sink, sewer or cess-pool, or any other offensive matter is allowed to flow, drain or be put upon a public street or place, or into a sewer or drain not set apart for the purpose, without the permission in writing of the board or in contravention of any con-

Penalty for discharging sewage on public street, etc.

dition prescribed in such permission, the owner or occupier of the land or building from which such water or offensive matter so flows, drains or is put shall be liable upon conviction to a fine which may extend to twenty rupees.

Power to enter and disinfect buildings.

**277.** Subject to the provisions of section 287, the board may enter and inspect a building, and may by notice direct all or any part thereof to be internally or externally limewashed, disinfected, or otherwise cleansed for sanitary reasons:

Provided that nothing in this section shall apply to a factory regulated by the <sup>1</sup>Indian Factories Act, 1911.

XII of 1911.

Buildings unfit for human habitation.

**278.** (1) Should a building, or a room in a building, be in the opinion of the board unfit for human habitation in consequence of the want of proper means of drainage or ventilation or otherwise, the board may, by notice, prohibit the owner or occupier thereof from using the building or room for human habitation or suffering it to be so used either absolutely or unless, within a time to be specified in the notice, he effects such alteration therein as is prescribed in the notice.

(2) Upon failure of a person to whom notice is issued under sub-section (1) to comply therewith, it shall be lawful for the board to require by further notice the demolition of the building or room.

Penalty for failure to give information of cholera, small-pox, etc.

**279.** Whoever,—

- (a) being a medical practitioner and in the course of such practice becoming cognizant of the existence of cholera, plague, small-pox or any other infectious disease that may be notified in this behalf by the Local Government in any dwelling other than a public hospital in the municipality, or,
- (b) in default of such medical practitioner, being the owner or occupier of such dwelling, and being cognizant of the existence of any such infectious disease therein, or,
- (c) in default of such owner or occupier, being the person in charge of, or in attendance on, a person suffering from any such infectious disease in such dwelling, and being cognizant of the existence of the disease therein,

fails to give, or gives false, information to such officer as the board may appoint in this behalf respecting the existence of such disease, shall be liable upon conviction to a fine which may extend to fifty rupees:

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be punishable if it is shown that he had reasonable cause to suppose that the information had been, or would be, duly given.

Removal to hospital of patients.

**280.** When a person suffering, or certified by a duly qualified medical practitioner to be suffering, from cholera, plague, small-pox or

any other infectious disease that may be notified in this behalf by the Local Government is—

- (a) without proper lodging or accommodation, or
- (b) living in a *sarai* or other public hostel,
- (c) living in a room or house which he neither owns nor is otherwise entitled to occupy, or
- (d) lodged in a room or set of apartments occupied by more than one family, and any of the occupiers objects to his continuing to lodge therein,

the board may, on the advice of a medical officer of rank not inferior to that of an assistant surgeon, remove the patient to a hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

281. Whoever, while suffering from an infectious, contagious, or loathsome disorder—

- (a) makes or offers for sale an article of food or drink for human consumption or a medicine or drug, or
- (b) wilfully touches any such article, medicine or drug, when exposed for sale by others, or
- (c) takes any part in the business of washing or carrying soiled clothes,

Penalty for acts done by persons suffering from disorders.

shall be liable upon conviction to a fine which may extend to twenty rupees.

282. (1) If the Sanitary Commissioner or the Civil Surgeon or Health Officer certifies that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner—

- (a) in a place within the limits of a municipality is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood, or
- (b) in a place within or beyond the limits of a municipality is likely to contaminate the water-supply of such municipality or otherwise render it unfit for drinking purposes,

Prohibition of cultivation, use of manure, or irrigation injurious to health.

the board may by public notice prohibit the cultivation of such crop, the use of such manure or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury or contamination.

(2) Provided that when, on any land in respect of which such notice is issued, the act prohibited has been practised in the ordinary course of husbandry for the five successive years next preceding the date of prohi-

bition, compensation shall be paid from the municipal fund to all persons interested therein for damage caused to them by such prohibition.

Power to  
require  
owner to  
clear away  
noxious  
vegetation.

Power to  
require  
excavations  
to be filled  
up or  
drained.

**283.** The board may, by notice, require the owner or occupier of any land to clear away and remove any vegetation or undergrowth which may be injurious to health or offensive to the neighbourhood.

**284.** (1) In a municipality for which byelaws have been made under sub-head (g) of heading I of section 298, the board may, by notice, require the owner or occupier of any land upon which an excavation, cess-pool, tank or pit has been made in contravention of such byelaws, or in breach of the conditions under which permission to dig any such excavation, cess-pool, tank or pit has been granted, to fill up or drain the excavation, cess-pool, tank or pit within a period to be specified in such notice.

(2) The Local Government may by notification extend the provisions of this section and of byelaws made for the purpose of this section to an area beyond the municipality lying within a distance of a mile from the municipal boundary.

Power in  
respect of  
burial and  
burning  
grounds.

**285.** (1) The board may, by public notice, order a burial or burning-ground which is certified by the Civil Surgeon or Health Officer to be dangerous, or likely to be dangerous, to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial places in such burial-grounds may be excepted from the notice, subject to such conditions as the board may impose in this behalf:

Provided that the limits of such burial places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning-ground whether public or private, shall be made or formed without the permission in writing of the board.

(4) No person shall, except with the permission of the board in writing, bury or burn, or cause to be buried or burnt, a corpse in a place other than a recognized burial or burning-ground.

(5) Should a person bury or burn, or cause or permit to be buried or burnt, a corpse, contrary to the provisions of this section, he shall be liable upon conviction to a fine which may extend to fifty rupees.

Bathing and  
washing  
places.

**286.** The board may set apart suitable places for the purpose of bathing, and may specify the times at which and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or other things; and may, by public notice, prohibit bathing or the washing of animals or clothes or

other things in a public place not so set apart, or at times or by persons other than those specified, and may in like manner prohibit any other act by which water in public places may be rendered foul or unfit for use or which causes or is likely to cause inconvenience or annoyance to persons lawfully using such places.

*Inspection, Entry, Search, etc.*

**287.** (1) The chairman, the executive officer and if authorized in this behalf by resolution, any other member, officer or servant of the board, may enter into or upon a building or land, with or without assistants or workmen, in order to make an inspection for survey or to execute a work which a board is authorized by this Act, or by rules or byelaws, to make or execute, or which it is necessary for a board, for any of the purposes or in pursuance of any of the provisions of this Act or of rules or byelaws, to make or execute: Ordinary inspection.

(2) Provided that,—

- (a) except when it is in this Act or in rules or byelaws otherwise expressly provided, no such entry shall be made between sunset and sunrise; and
- (b) except when it is in this Act or in rules or byelaws otherwise expressly provided, no building which is used as a human dwelling shall be so entered, except with the consent of the occupier thereof, without giving the said occupier not less than four hours previous written notice of the intention to make such entry; and
- (c) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice, to enable the inmates of an apartment appropriated for females to remove to some part of the premises where their privacy need not be disturbed; and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

**288.** Where there is reason to believe that, in any building or on any land, a work has been executed in connection with any municipal water-works, drainage-works or other municipal undertaking in contravention of the provisions of this Act or of rules or byelaws, the chairman or, if so directed by the chairman, the executive officer may at any time and without notice inspect such building or land. Preventive inspection.

**289.** It shall be lawful for a person authorized under the provisions of section 287 or 288 to make an entry for the purpose of inspection or of search, to open or cause to be opened a door, gate, or other barrier— Powers for effecting entry.

- (a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

- (b) if the owner or occupier is absent, or, being present, refuses to open such door, gate or barrier.

Power of board to require certain works to be executed by its own agency.

290. (1) The board may by byelaw require any water-works, or work of the nature to which sections 192, 267, and 268 refer, to be executed by municipal or other agency under its own orders.

(2) The expenses of any work so executed shall be paid by the person by whom the work would otherwise have been executed, unless the board shall, by a general or special order or resolution, sanction, as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(3) Any pipes, fittings, receptacles or other appliances for or connected with any water-works, or with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the board, be deemed to be municipal property, unless the board shall have transferred its interest therein to the owner of such buildings or lands.

### *Rent and Charges.*

Recovery of rent on land.

291. (1) Where any sum is due on account of rent from a person to a board in respect of land vested in, or entrusted to the management of, the board, the board may apply to the Collector to recover any arrear of such rent as if it were an arrear of land revenue.

(2) The Collector on being satisfied that the sum is due shall proceed to recover it as an arrear of land revenue.

Recovery of rent of other immoveable property.

292. Any arrears due on account of rent from a person to the board in respect of immoveable property, other than land vested in, or entrusted to the management of, the board, shall be recovered in the manner prescribed by Chapter VI.

Fees for use otherwise than under a lease, of municipal property.

293. (1) The board may charge fees to be fixed by byelaws or by public auction or by agreement, for the use or occupation (otherwise than under a lease) of any immoveable property vested in, or entrusted to the management of, the board, including any public street or place of which it allows the use or occupation whether by allowing a projection thereon or otherwise.

(2) Such fees may either be levied along with the fee charged under section 294 for the sanction, licence or permission or may be recovered in the manner provided by Chapter VI.

License fees, etc.

294. The board may charge a fee to be fixed by byelaw for any licence, sanction or permission which it is entitled or required to grant by or under this Act.



*Obstruction to Persons employed by Board.*

295. Whoever obstructs or molests a person employed by, or under contract with, the board under this Act in the performance of his duty or in the fulfilment of his contract, or removes a mark set up for the purpose of indicating any levels or direction necessary to the execution of works authorized by this Act, shall be liable on conviction to a fine which may extend to fifty rupees.

Penalty for obstructing persons employed by board.

## CHAPTER IX.

## RULES, REGULATIONS, AND BYELAWS.

296. (1) The Local Government shall make rules consistent with this Act in respect of the matters described in sections 29, 95, 127, 153, and 235.

Obligation and power of Local Government to make rules.

(2) The Local Government may make rules consistent with this Act—

- (a) providing for any matter for which power to make provision is conferred expressly or by implication, on the Local Government by this or any other enactment in force at the commencement of this Act, and
- (b) generally for the guidance of a board or any Government officer in any matter connected with the carrying out of the provisions of this or any other enactment relating to municipalities.

297. (1) A board may, by special resolution make regulations consistent with this Act, or with any rule under section 296 or regulation under sub-section (2) made by the Local Government, as to all or any of the following matters:—

Power to make regulations as to procedure, etc.

- (a) the time and place of the meeting, of a board;
- (b) the manner of convening meetings, and of giving notice thereof;
- (c) the conduct of proceedings <sup>1</sup>[including the asking of questions by members] at meetings, and the adjournment of meetings;
- (d) the establishment of committees, other than merely advisory committees, for any purpose, and the determination of all matters relating to the constitution and procedure of such committees;
- (e) the avoidance of any entry shown in the third column of Schedule II;

<sup>1</sup> These words were inserted by s. 3 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

- (f) with reference to sub-section (2) of section 77, the augmentation of any maximum or minimum monthly salary specified in section 74, 75, or 76 with reference to powers over the staff;
- (g) the delegation of powers, duties or functions to—
  - (i) the chairman of the board;
  - (ii) a committee constituted under clause (d);
  - (iii) a chairman of such committee;
  - (iv) the executive officer; or
  - (v) where there is no executive officer, any other servant of a board;
- (h) the absentee or other allowances of the servants employed by a board;
- (i) the amount and nature of the security to be furnished by a servant of a board from whom it is deemed expedient to require security;
- (j) the grant of leave to servants of a board and the remuneration to be paid to the persons (if any), appointed to act for them whilst on leave;
- (k) the period of service of all servants of a board and the conditions under which such servants, or any of them, shall receive gratuities or compassionate allowances on retirement or on their becoming disabled through the execution of their duty, and the amount of such gratuities or compassionate allowances; and the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such servants whose death has been caused through the execution of their duty;
- (l) the payment of contributions, at such rates and subject to such conditions as may be prescribed in such regulations, to a pension or provident fund established by the board or, with the approval of the board, by the said servants;
- (m) the conditions subject to which the sums due to a board may be written off as irrecoverable, and the conditions subject to which the whole or any part of a fee chargeable for distress may be remitted; and
- (n) all other similar matters:

(2) Provided that the Local Government may, if it thinks fit, make regulations consistent with this Act in respect of any of the matters specified in clauses (h) to (m) of sub-section (1), and any regulation so made shall have the effect of rescinding any regulation made by the board under the said sub-section in respect of the same matter or inconsistent therewith.

298. (1) A board by special resolution may, and where required by the Local Government shall, make byelaws, applicable to the whole or any part of the municipality consistent with this Act and with any rule, for the purpose of promoting or maintaining the health, safety, and convenience of the inhabitants of the municipality and for the furtherance of municipal administration under this Act. Power of board to make byelaw.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1) the board of a municipality, wherever situated, may, in the exercise of the said power, make any byelaw described in List I below, and the board of a municipality, wholly or in part, situated in a hilly tract may further make, in the exercise of the said power, any byelaw described in List II below.

### LIST I.

#### BYELAWS FOR ANY MUNICIPALITY.

##### *A.—Buildings.*

(a) Extending, with reference to sub-section (2) of section 178, the necessity of giving notice to all buildings;

(b) declaring with reference to clause (d) of sub-section (3) of section 178, an alteration of any specific description to be a "material alteration;"

(c) determining the information and plans to be furnished to the board under section 179;

(d) prescribing that, on payment of fees in accordance with such scale as is specified in this behalf, plans and specifications shall be obtainable from the board or from an agency prescribed by the board;

(e) fixing, with reference to section 181, the period for which a sanction shall remain in force;

(f) prescribing the type or description of buildings which may or may not, and the purposes for which a building may or may not, be erected in any prescribed area or areas;

(g) prescribing the circumstances in which a mosque, temple, church or other sacred building may or may not be erected, re-erected or altered;

(h) prescribing, with reference to the erection, re-erection or alteration of buildings, or of any class of buildings, all or any of the following matters:—

(i) the materials and method of construction to be used for external and party walls, roof and floors;

- (ii) the position and the materials and method of construction of fireplaces, chimneys, drains, latrines, privies, urinals and cesspools;
- (iii) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
- (iv) the ventilation and the space to be left about the building to secure free circulation of air and to facilitate scavenging and for prevention of fire;
- (v) the level and width of foundation, level of lowest floor, and stability of structure;
- (vi) the number and height of the storeys of which the building may consist;
- (vii) the means to be provided for egress from the building in case of fire;
- (viii) any other matter affecting the ventilation or sanitation of the building; and
- (ix) the conditions subject to which sanction for the construction or alteration of a well may be refused or granted, with a view to prevent pollution of the water or danger to any person using the well;

(z) regulating in any manner not specially provided for in this Act, the erection of any enclosure, wall, fence, tent, awning or other structure, of whatsoever kind or nature, on any land within the limits of the municipality.

#### *B.—Drains, Privies, Cesspools, etc.*

(a) Regulating, in any manner not specifically provided for in this Act, the construction, alteration, maintenance, preservation, cleansing and repairs of drains, ventilation shafts and pipes, waterclosets, privies, latrines, urinals, cesspools and other drainage works;

(b) regulating or prohibiting the discharge into drains, or deposit therein, of sewage, sullage, polluted water and other offensive or obstructive matter;

(c) prescribing the size and nature of the works which owners or occupiers may be required to construct under sections 192, 267 and 268, and the agency which shall or may be employed for executing such works.

#### *C.—Extinction of Fire.*

(a) Prescribing the officer to whom and the place at which the outbreak of a fire shall be reported; and

(b) generally making provision for the procedure and precautions to be adopted by the public on the occasion of a fire and for any other thing relating to fires in respect of which provision is necessary.

*D.—Scavenging.*

(a) Prescribing the times and places at which receptacles of filth, rubbish or other offensive matter shall be in readiness for the removal of the contents by the municipal scavenging agency; and

(b) making provision for any other matter relating to house-scavenging.

*E.—Streets.*

• (a) Determining the information and plans to be furnished to the board under section 203;

(b) permitting, prohibiting or regulating the use or occupation of any or all public streets or places by itinerant vendors, or by any person for the sale of articles, or for the exercise of any calling, or for the setting up of any booth or stall, and providing for the levy of fees for such use or occupation;

(c) regulating the conditions on which permission may be given under section 209 for projections over streets and drains and under section 265 for the temporary occupation of streets.

*F.—Markets, Slaughter-houses, Sale of food, etc.*

(a) Prohibiting, subject to the provisions of section 241, the use of any place as a slaughter-house, or as a market or shop for the sale of animals intended for human food or of meat or of fish, or as a market for the sale of fruit or vegetables, in default of a licence granted by the board or otherwise than in accordance with the conditions of a licence so granted;

(b) prescribing the conditions subject to which, and the circumstances in which and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn; and

(c) providing for the inspection of, and regulation of the conduct of business in, a place used as aforesaid, so as to secure cleanliness therein or to minimize any injurious, offensive or dangerous effect arising or likely to arise therefrom;

(d) providing for the establishment, and [except so far as provision may be made by byelaws under sub-head (c)] for the regulation and inspection of markets and slaughter-houses, of livery stables, of encamping grounds, of sarais, of flour-mills, of bakeries, places for the manufacture, preparation or sale of specified articles of food or drink, or for keeping or exhibiting animals for sale or hire or animals of

which the produce is sold, and of places of public entertainment or resort, and for the proper and cleanly conduct of business therein:

(e) in a municipality where a reasonable number of slaughter-houses has been provided or licensed by the board, controlling and regulating the admission within municipal limits, for purposes of sale, of the flesh (other than cured or preserved meat) of any cattle, sheep, goats or swine slaughtered at a slaughter-house or place not maintained or licensed under this Act.

#### *G.—Offensive Trades.*

(a) Except where and so far as is inconsistent with anything contained in the Indian Petroleum Act, 1899, or in rules made thereunder prohibiting the use of any place, in default of a licence granted by the board or otherwise than in accordance with the conditions of a licence so granted, as a factory or other place of business—

- (i) for boiling or storing offal, blood, bones, guts, or rags,
- (ii) for storing hides, horns or skins,
- (iii) for tanning,
- (iv) for the manufacture of leather or leather goods,
- (v) for dyeing,
- (vi) for melting tallow or sulphur,
- (vii) for burning or baking bricks, tiles, pottery or lime,
- (viii) for soap-making,
- (ix) for oil-boiling,
- (x) for storing hay, straw, thatching-grass, wood, coal or other dangerously inflammable, material,
- (xi) for storing petroleum or any inflammable oil or spirit,
- (xii) for storing and pressing cotton and cotton refuse,
- (xiii) for any other purpose if such use is likely to cause a public nuisance or involve risk of fire;

(b) prescribing (but not so as to derogate from any power conferred on a board by section 245) the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn; and

(c) providing for the inspection and regulation of the conduct of business in a place used as aforesaid, so as to secure cleanliness therein or to minimize any injurious, offensive or dangerous effect arising or likely to arise therefrom.

#### *H.—Public Safety and Convenience.*

(a) Prescribing the standard weights and measures to be used within the municipality, and providing for the inspection of the same;

(b) providing for the regulation or prohibition of any description of traffic in the streets, where such regulation or prohibition appears to the board to be necessary;

(c) imposing the obligation of taking out licences on the proprietors or drivers of vehicles, boats or animals kept or plying for hire, or on persons hiring themselves out for the purpose of carrying loads, within the limits of the municipality, and fixing the fees payable for such licences and the conditions on which they are to be granted and may be revoked;

(d) limiting the rates which may be demanded for the hire of a carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals or persons when hired within the municipality for a period not exceeding twenty-four hours or for a service which would ordinarily be performed within twenty-four hours;

(e) prohibiting, in any specified street or area, the residing of public prostitutes and the keeping of a brothel, or the letting or other disposal of a house or building to public prostitutes or for a brothel;

(f) for the regulation of the posting of bills and advertisements;

(g) fixing and regulating the use of places at which boats may be moored, loaded and unloaded, and prohibiting the mooring, loading and unloading of boats except at such places as may be prescribed by the board;

(h) providing for the seizure and confiscation of ownerless animals straying within the limits of the municipality;

(i) providing for the registration of dogs;

(j) providing for the imposition of an annual fee for such registration;

(k) requiring that every registered dog shall wear a collar to which shall be attached a token to be issued by the board;

(l) providing that a dog, unless registered and wearing such token, may, if found in any public place, be destroyed or otherwise disposed of;

(m) prohibiting or regulating, with a view to promoting the public safety or conveyance, any act which occasions or is likely to occasion a public nuisance and for the prohibition or regulation of which no provision is made under this heading.

### *I.—Sanitation and Prevention of Disease.*

(a) Regulating or prohibiting, for the purpose of preventing danger to the public health, the stalling or herding of horses, camels, cattle, swine, donkeys, sheep, or goats;

(b) prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage, and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milk-sellers and providing for the inspection of milch cattle, and securing the cleanliness of milk stores, milk shops and vessels used by milk-sellers or buttermen for milk or butter;

(c) controlling and regulating the use and management of burial and burning-grounds, and fixing the fees to be charged where such grounds have been provided by the board, and prescribing or prohibiting routes for the removal of corpses to burial or burning-grounds;

(d) regulating sanitation and conservancy;

(e) declaring that no place, unless specially exempted, shall be used as a lodging-house, unless it has been duly licensed as such by the board, and prescribing the conditions subject to which such licences may be granted, refused, suspended or withdrawn, and fixing the fees payable for such licences;

(f) providing, in default of a byelaw made under the preceding sub-head, for the registration and inspection of lodging-houses, the prevention of overcrowding, the promotion of cleanliness and ventilation, and prescribing the notices to be given and the precautions to be taken in the case of any infectious or contagious disease breaking out therein, and generally for the proper regulation of lodging-houses;

(g) prohibiting the digging of excavations, cesspools, tanks or pits within specified areas except with the permission of the board, and specifying the conditions subject to which such permission may be given;

(h) prohibiting or regulating, with a view to sanitation or the prevention of disease, any act which occasions, or which is likely to occasion, a public nuisance and for the prohibition or regulation of which no provision is made under this heading.

#### *J.—Miscellaneous.*

(a) Prohibiting or regulating any act which occasions, or is likely to occasion, a public nuisance for the prohibition or regulation of which no provision is made elsewhere by or under this Act;

(b) providing for the registration of births, deaths and marriages, and the taking of a census within the municipality and for the compulsory supply of such information as may be necessary to make such registration or census effective;

(c) for the protection from injury or interference of anything within the municipality being the property of His Majesty or of the board or being under the control of the board;



(d) fixing any charges or fees, or any scale of charges or fees to be paid for house scavenging or the cleansing of latrines and privies under section 196 (c) or for any other municipal service or undertaking, or to be paid under section 293 (I) or section 294 of the Act, and prescribing the times at which such charges or fees shall be payable, and designating the persons authorized to receive payment thereof;

(e) providing for the holding of fairs and industrial exhibitions within the municipality or under the control of the board, and fixing the fees to be levied thereat;

(f) requiring and regulating the appointment by owners of buildings and lands in the municipality of persons residing within or near the municipality to act as their agents for all or any of the purposes of this Act or of any rule or byelaw;

(g) specifying the records and documents belonging to, or in the possession of, the board of which inspection may be made or copies given and the charges to be levied for inspection or copies of such records and documents, and regulating inspection and the giving of copies;

(h) providing for the granting of licences for the sale and for the dispensing of medicinal drugs.

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## LIST II.

### FURTHER BYELAWS FOR A HILL MUNICIPALITY.

#### *H.—Public Safety and Convenience.*

(n) Regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying; and providing for the alteration, repair, and proper maintenance of buildings and compounds, for the closing of roads and byepaths and for the general protection of the surface land on any hillside where such byelaws appear to the board to be necessary for the maintenance of a water supply, the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, gravel or stones;

(o) prohibiting the lighting of fires in the top storey of a building which, by reason of its contiguity to other buildings, might be a source of danger to the latter in the event of a fire breaking out within it, and the walls of which storey do not exceed seven feet in height, or the placing of stands for lamps and candles in any position which the board may deem to be dangerous to the public safety;

(p) regulating the rule of the road;

- (q) rendering licences necessary within the municipality—
- (i) for persons working as job porters for the conveyance of goods;
  - (ii) for animals, vehicles and other conveyances let out on hire for a day or part thereof; and
  - (iii) for persons impelling or carrying such vehicles and other conveyances;
- (r) prescribing the conditions subject to which such licences may be granted, refused, suspended or withdrawn;
- (s) regulating the charges to be made for the services of such job porters as aforesaid, and for the hire of such animals, vehicles and other conveyances and for the remuneration of persons who impel or carry such vehicles or conveyances.

*I.—Sanitation and Prevention of Disease.*

- (i) Rendering licences necessary for using premises within bazars as stables or cow-houses or as accommodation for sheep, goats and fowls;
- (j) preventing overcrowding in houses and inhabited sites; and

*J.—Miscellaneous.*

- (i) providing for the registration, generally or within particular months of persons entering or leaving the municipality.

Infringe-  
ment of  
rules and  
byelaws.

**299.** (1) In making a rule the Local Government, and in making a byelaw the board with the sanction of the Local Government, may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

(2) The board may with like sanction prescribe a similar penalty for the breach of a rule lawfully made under the <sup>1</sup>North-Western Provinces and Oudh Municipalities Act, 1873, and still remaining in force. XV of 1873.

Previous  
publication  
of rules, etc.,  
made by  
Government.

**300.** (1) The power of the Local Government to make rules or regulations under this chapter is subject to the condition of the rules or regulations being made after previous publication and of their not taking effect until they have been published in the Gazette.

(2) Any rule or regulation made by the Local Government may be general for all municipalities or for all municipalities not expressly excepted from its operation or may be special for the whole or any part of any one or more than one municipality as the Local Government directs.

<sup>1</sup> Act 15 of 1873 was repealed by U. P. Act 1 of 1900 which is repealed by the present Act.

301. The power of a board to make regulations under clauses (e) to (m) of sub-section (1) of section 297 shall be subject to the condition of the regulations not taking effect until they have been confirmed in the case of cities by the Local Government and in other cases by the Commissioner.

(2) The power of a board to make byelaws shall be subject to the condition of the byelaws being made after previous publication and of their not taking effect until they have been confirmed by the Local Government and published in the Gazette.

(3) The Local Government in confirming a byelaw or regulation and the Commissioner in confirming a regulation may make any change in its form that appears necessary.

(4) No alteration or rescission of a regulation made under clauses (e) to (m) of sub-section (1) of section 297 or of any byelaw by a board shall have effect unless and until it has been confirmed by the Local Government in the case of cities and in other cases by the Commissioner.

(5) The Local Government may, after previous publication of its intention, rescind any regulation or byelaw which it has confirmed, and the Commissioner may, in like manner, rescind any regulation which he has confirmed, and thereupon the regulation or byelaw shall cease to have effect.

## CHAPTER X.

### PROCEDURE.

#### *Municipal Notices.*

302. Where any notice issued under any section of this Act or under any rule or byelaw requires an act to be done for which no time is fixed by such section or rule or byelaw, the notice shall specify a reasonable time for doing the same; and it shall rest with the court to determine whether the time so specified was a reasonable time within the meaning of this section.

303. (1) Every notice or bill issued or prepared under any section of this Act or under any rule or byelaw shall, unless it is in such section or rule or byelaw otherwise expressly provided, be served or presented—

- (a) by giving or tendering the notice or bill, or sending it by post, to the person to whom it is addressed, or
- (b) if such person is not found, then by leaving the notice or bill at his last known place of abode, if within municipal

limits, or by giving or tendering the notice or bill to some adult male member or servant of his family, or by causing the notice or bill to be fixed on some conspicuous part of the building or land (if any) to which the notice or bill relates.

(2) When a notice under this Act or under a rule or a byelaw is required or permitted by or under this Act, or under a rule or a byelaw to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier therein and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(a) by giving or tendering the notice, or sending it by post, to the owner or occupier, or if there be more owners or occupiers than one, to any one of them, or

(b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family, or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Whenever the person on whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

Method of  
giving public  
notice.

**304.** Subject to the provisions of this Act or of any rule, regulation or byelaw, in every case where public notice is to be given by a board, such notice shall be deemed to have been given if it is published in some local English or vernacular paper (if any) and posted upon a notice board to be exhibited for public information at the building in which the meetings of the board are ordinarily held.

Defective  
form.

**305.** No notice or bill shall be invalid for defect of form.

Disobedience  
to public  
notice or  
provision of  
Act applica-  
ble to the  
public.

**306.** Where by this Act or a notice issued thereunder the public is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under any other section, be liable on conviction by a Magistrate to a fine not exceeding five hundred rupees for every such failure, and in the case of a continuing breach, to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the breach.

Disobedience  
to notice  
issued to  
individual.

**307.** If a notice has been given under the provisions of this Act or under a rule or byelaw to a person requiring him to execute a work in respect of any property, moveable or immovable, public or private, or to provide or do or refrain from doing anything within a time speci-

ed in the notice, and if such a person fails to comply with such a notice, then—

- (a) the board may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said persons in the manner provided by Chapter VI; and further
- (b) the said person shall be liable, on conviction before a Magistrate, to a fine which may extend to five hundred rupees, and in case of a continuing breach, to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

308. (1) If the person to whom the notice mentioned in section 307 has been given, is the owner of the property in respect of which it is given, the board may (whether any action or other proceeding has been brought or taken against such owner or not) require the person (if any) who occupies such property or a part thereof under such owner, to pay to the board, instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 307; and any such payment made by the occupier to the board shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been made to the owner of the property.

Liability of occupier to pay in default of owner.

(2) For the purpose of deciding whether action should be taken under sub-section (1), the board may require an occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable; and if the occupier refuses to furnish such information he shall be liable for the whole of the expenses as if he were the owner.

(3) All money recoverable by the board under this section shall be recoverable in the manner provided by Chapter VI.

309. Whenever default is made by the owner of a building or land in the execution of a work required by or under this Act to be executed by him, the occupier of such building or land may, with the approval of the board, cause such work to be executed, and the expense thereof shall, in the absence of any contract to the contrary, be paid to him by the owner or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Right of occupier to execute works in default of owner.

310. (1) If, after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take such action, the owner may apply to a Magistrate.

Procedure upon opposition to execution by occupier.

(2) The Magistrate upon proof of such refusal may make an order in writing requiring the occupier to allow the owner to execute all such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order.

(3) If, after the expiration of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable, upon conviction, to a fine which may extend to twenty-five rupees for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Recovery of  
cost of work  
by the occu-  
pier.

**311.** When the occupier of a building or land has, in compliance with a notice issued under the provisions of this Act, executed a work for which the owner of such building or land is responsible, either in pursuance of the contract of tenancy or by law, he shall, in the absence of any contract to the contrary, be entitled to recover from the owner by deduction from the rent payable by him or otherwise the reasonable cost of such work.

Recovery of  
expenses of  
removal by  
board under  
sections 211,  
263, 264,  
265 and 278.

**312.** (1) The expenses incurred by the board in effecting any removal under section 263 or 265, or in the event of a written notice issued under section 211, 263, 264 or 278 not being complied with, under section 307 shall be recoverable by sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be recoverable from the owner of the said materials in the manner provided by Chapter VI.

(2) If the expenses of removal are in any case paid before the materials are sold, the board shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the board in respect thereof, or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the board thinks fit, as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the meantime been paid or not; and the proceeds, if any, of the sale or other disposal shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to the credit of the municipal fund, and shall be the property of the board.

Relief to  
agents and  
trustees.

**313.** (1) When a person, by reason of his receiving or being entitled to receive, the rent of immoveable property as trustee or agent of a person or society would, under this Act, be bound to discharge an

obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hands funds, belonging to the owner sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section, the board may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which come to his hands on behalf, or for the use, of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

### *Prosecutions.*

314. Unless otherwise expressly provided, no Court shall take cognizance of any of the offences punishable under this Act (whereof a list is given in Schedule VIII for the purpose merely of easier reference) or under any rule or byelaw, except on the complaint of, or upon information received from, the board or some person authorized by the board by general or special order in this behalf. Authority for prosecution.

315. (1) The chairman of a board or, in municipalities in which there is an executive officer, the executive officer, with the sanction, general or special, of the chairman, may, either before or after the institution of proceedings, compound an offence against this Act or a rule or byelaw, except the offences described in section 237 (4), 242, 246, 247, 281, 285 (5) and 295 and offences against any rules made under section 296 with reference to the matters specified in section 29; provided that no offence shall be compoundable which is constituted by failure to comply with a written notice issued by the board or on behalf of the board, unless and until the notice has been complied with, in so far as compliance is possible. Power to compound offences.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

316. If through an act, neglect or default on account whereof a person shall have incurred a penalty imposed by or under this Act any damage to the property of the board shall have been caused, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty; and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such amount on demand the same shall be levied by distress and such Magistrate shall issue his warrant accordingly. Compensation for damage to municipal property.

Powers and duties of police in respect of offences and assistance to municipal authorities.

317. Every police officer shall give immediate information to the board of an offence coming to his knowledge which has been committed against this Act or against an Act referred to in clause (b) of sub-section (1) of section 114, or against any rule made under any of the said Acts; and shall be bound to assist all members, officers, and servants of the board in the exercise of their lawful authority.

*Appeals from orders of Board, and Suits against the Board.*

Appeals from order of board.

318. (1) Any person aggrieved by any order or direction made by a board under the powers conferred upon it by sections 180 (1), 186, 205 (1), 208, 211, 222 (6), 241 (2), 245, 278, 285, or under a byelaw made under heading G of section 298, may within thirty days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof, appeal to such officer as the Local Government may appoint for the purpose of hearing such appeals or any of them, or, failing such appointment, to the District Magistrate:

Provided that if, in the latter case, the District Magistrate be himself a member of the board, the appeal shall lie to the Commissioner.

(2) The appellate authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) No appeal shall be dismissed or allowed in part or whole unless reasonable opportunity of showing cause or being heard has been given to the parties.

Reference to High Court.

319. (1) If on the hearing of an appeal under section 318 any question as to the legality of the prohibition, direction, notice or order arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court.

(2) On a reference being made under sub-section (1) the subsequent proceedings in the case shall be as nearly as may be in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule of the Code of Civil Procedure, 1908,<sup>1</sup> or such other rules as are made by the High Court under section 122 of that Code.

Costs.

320. (1) The Court deciding the appeal shall have power to award costs at its discretion.

(2) Costs awarded under this section to the board shall be recoverable by the board as if they were arrears of a tax due from the appellant.

<sup>1</sup> Genl. Acts, Vol. VI.



(3) If the board fail to pay any costs awarded to an appellant under this section within ten days after the date of the communication of the order for payment thereof, the court awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

**321.** (1) No order or direction referred to in section 318 shall be questioned in any other manner or by any other authority than is provided therein. Finality of order of appellate authority.

(2) The order of the appellate authority confirming, setting aside or modifying any such order or direction shall be final:

Provided that it shall be lawful for the appellate authority, upon application, and after giving notice to the other party, to review any order passed by him in appeal by a further order passed within three months from the date of his original order.

**322.** When an order of the kind specified in section 318 is subject to appeal and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for a breach thereof may, by order of the appellate authority, be suspended pending the decision of the appeal, and, if such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence. Suspension of prosecution in certain cases.

**323.** Every order of forfeiture under section 201 and every order under section 202 or section 258 shall be subject to appeal to the next superior court to that by which the order was passed, but shall not be otherwise open to appeal or revision. Appeals from certain orders of a court.

**324.** (1) Should a dispute arise touching the amount of compensation which the board is required by this Act to pay it shall be settled in such manner as the parties may agree, or, in default of agreement, by the Collector upon application made to him by the board or the person claiming compensation. Disputes as to compensation payable by board.

(2) Any decision of the Collector awarding compensation shall be subject to a right of the applicant for compensation to require reference to the District Judge in accordance with the procedure set forth in section 18 of the Land Acquisition Act, 1894.<sup>1</sup>

1 of 1894.

(3) In cases in which compensation is claimed in respect of land, the Collector and the District Judge shall, as far as may be, observe the procedure prescribed by the said Act for proceedings in respect of compensation for the acquisition of land acquired for public purposes.

**325.** (1) Should a dispute arise between a municipal board and any other local authority on any matter in which they are jointly interested, such dispute shall be referred to the Local Government whose decision shall be final. Decision of disputes between local authorities.

<sup>1</sup> Genl. Acts, Vol. IV.

(2) The Local Government may regulate by rule made under section 296 the relations to be observed between boards and other local authorities in any matter in which they are jointly interested.

Suits against  
board or its  
officers.

**326.** (1) No suit shall be instituted against a board or against a member, officer or servant of a board, in respect of an act done or purporting to have been done in its or his official capacity, until the expiration of two months next after notice in writing has been, in the case of a board, left at its office, and, in the case of a member, officer or servant, delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) If the board, member, officer or servant shall, before action is commenced, have tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be commenced otherwise than within six months next after the accrual of the cause of action.

(4) Provided that nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceeding.

## CHAPTER XI.

### SUPPLEMENTARY.

Delegation  
of powers by  
the Local  
Government.

**327.** The Local Government may by notification delegate to the Commissioner, in respect of any specified municipality or municipalities in his division any one or more of the powers vested in it by this Act with the exception of the powers detailed in Schedule VII.

Facility for  
inspection  
of minute  
books and  
assessment  
lists.

**328.** The minute books and assessment lists of the board shall be open to inspection free of charge by any tax-payer or elector under conditions to be prescribed by byelaw in this behalf.

Provision  
for publicity  
of rules.

**329.** Books containing every rule, regulation and byelaws shall be kept in the municipal office and shall be open, during the ordinary hours of business, to inspection free of charge by any person and shall

be for sale to the public at such office at a reasonable price to be specified by byelaw in this behalf. regulations and byelaws.

**330.** A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a board shall, if duly certified by the legal keeper thereof or other person authorized by byelaw in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case, where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters. Mode of proof of municipal records.

**331.** No municipal officer or servant shall in any legal proceeding to which a board is not a party be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the court made for special cause. Restriction on the summoning of municipal servants to produce documents.

**332.** With the previous sanction of the chairman, any member of a board may inspect any work, or institution, constructed or maintained, in whole or part, at the expense of the board, and any register, book, accounts or other document belonging to, or in the possession of, the board. Inspection of municipal works and registers by members.

**333.** When a new municipality is created under this Act, the District Magistrate, or other officer appointed by him in this behalf, shall, until a board is established, exercise the powers of a board for the purpose of making preliminary arrangements for the holding of first elections or otherwise, and generally of expediting the assumption by the board of its duties when established. Exercise by District Magistrate of board's power pending establishment of board.

**334.** (1) The enactments specified in Schedule IX are repealed. Repeals and savings.  
(2) Provided that this repeal shall not affect—

(a) the validity of any appointment, or any grant or appropriation of money or property, or any tax or impost, made or imposed under any enactment hereby repealed, or

(b) the terms of remuneration, or right to pension of any officer appointed before the commencement of this Act.

**335.** Nothing in this Act shall affect any provision of the <sup>1</sup>Indian Railways Act, 1890, or any rule made under that Act. Saving as to Indian Railways Act, 1890.

**336.** All acts done before the commencement of this Act which could have been lawfully done if this Act had been in force, shall be deemed to have been lawfully done. Validation of acts done before commencement of Act.

## CHAPTER XII.

## NOTIFIED AREAS.

Constitution  
of notified  
areas.

**337.** (1) The Local Government, by notification, may declare that in respect of any local area, other than a municipality, town area or agricultural village, it is desirable to make administrative provision for some or all of the matters described in sections 7 and 8 by extending thereto the provisions of this Chapter.

(2) A local area in regard to which a notification has been issued under sub-section (1) is hereinafter called a notified area.

(3) The decision of the Local Government that a local area is not an agricultural village within the meaning of sub-section (1) of this section shall be final and conclusive, and a publication in the Gazette of a notification declaring such area to be a notified area shall be conclusive proof of such decision.

Extension  
of enact-  
ments to,  
imposition  
of taxes on,  
and consti-  
tution of  
committees  
for, notified  
area.

**338.** (1) The Local Government may by notification,—

- (a) apply or adapt to a notified area the provisions of any section of this Act, or of any Act which may be applied to a municipality, or part of such section, or any rule, regulation or byelaw in force or which can be imposed in a municipality under the provisions of this or any other Act, subject to such restrictions and modifications, if any, as it may think fit;
- (b) impose, in the whole or a part of such area, any tax which might be imposed therein under the provisions of this or any other Act, if the said area were a municipality;
- (c) fix the number of persons who shall form a committee for the purposes of the assessment and recovery of a tax imposed under clause (b) and in order to arrange for the due expenditure of the proceeds of such tax, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any section or rules, regulations or byelaws applied or adapted under clause (a).

(2) A committee appointed under clause (c) of sub-section (1) shall consist of three or more members to be appointed by the Commissioner or elected in the manner prescribed by this Act or by rules, or partly so appointed and partly so elected as the Local Government may by general or special order prescribe.

(3) The proceeds of a tax levied in a notified area under this section may be expended in any manner in which the municipal fund of such

notified area might be expended if the notified area were a municipality.

(4) For the purposes of any enactment which may be extended to a notified area, the committee appointed for such area under clause (c) of sub-section (7) shall be deemed to be a board under this Act and the area to be a municipality.

339. When by reason of the cancellation of a notification under section 337 a notified area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 338 shall be applied for the benefit of the inhabitants of the said area as the Local Government may think fit.

Application of funds of areas ceasing to be notified areas.

### SCHEDULE I.

#### THE POWERS AND FUNCTIONS OF A BOARD.

[Sections 50 (e) (iv), 111 (I) and 112 (I) (a).]

1	2	3
Section.	Power or duty.	REMARKS.
3 (2) (c)	To apply or consent that the municipality be declared a city.	
8 (3)	To declare expenditure to be an appropriate charge on the municipal fund.	
13	To direct that a casual vacancy be left unfilled till the next ordinary election.	
37	To allow remuneration to a member.	
40 (I) (a)	To accept as satisfactory the explanation of a member for absence from meetings.	
43	To elect a chairman.	
52	To require the chairman to furnish reports, etc.	
54	To elect, or accept the resignation of, a vice-chairman.	
57	To appoint an executive officer.	
58	To punish or dismiss an executive officer.	
59	To appoint a person to officiate as executive officer.	

SCHEDULE I—*contd.*

## THE POWERS AND FUNCTIONS OF A BOARD.

1.	2	3
Section.	Power or duty	REMARKS.
61	To entertain appeals from orders of the executive officer.	May be delegated.
63	To require the executive officer to furnish returns, etc.	
66	To appoint a secretary.	
67	To punish or dismiss a secretary.	
68	To appoint a health officer, an engineer or a water-works engineer or superintendent.	
69	To punish or dismiss any officer appointed under section 68.	May be delegated.
70 (a)	To prohibit the employment of temporary servants for any particular work.	
71	To determine the number and salaries of other servants.	
72	To appoint one person to discharge the duties of two or more offices.	
74	To appoint, punish or dismiss servants on a monthly salary exceeding fifty or, in a city, seventy-five rupees, or other minimum specified by regulation under section 297 (1) (f).	
76 (2) (b)	To entertain appeals from orders of the chairman punishing or dismissing servants on a monthly salary exceeding ten but not exceeding fifty or, in a city, exceeding fifteen but not exceeding seventy-five rupees, or on a monthly salary between such other amounts as are specified by regulation under section 297 (1) (f).	May be delegated.
79 (2)	To establish a provident fund.	
79 (3), (4) and (5)	To grant a gratuity, or compassionate allowance or to grant or purchase an annuity.	

SCHEDULE I—*contd.*

## THE POWERS AND FUNCTIONS OF A BOARD

1	2	3
Section.	Power or duty.	REMARKS.
81	To institute a suit against a member.	
82 (2) (f)	To fix the amount up to which a member may be interested in occasional sales to the board.	
94 (6)	To modify or cancel a resolution.	
96 (1)	To sanction contracts for which budget provision does not exist or involving a value or amount exceeding Rs. 1,000 in the case of a contract by the board of a city and Rs. 250 in any other case	
96 (2)	To empower a committee or officer or servant of the board to sanction other contracts.	
96 (3)	To empower engineer to sanction contracts.	
97 (2) (b)	To empower engineer to execute a contract.	May be delegated.
99	To sanction a budget and to vary or alter a budget.	
104 (1)	To appoint and remove members of committees.	
104 (2)	To establish and appoint the members of advisory committees.	
105	To appoint persons other than members of the board to committees.	
106	To fill up vacancies in committees.	
107 (1)	To appoint the chairman of any committee.	
109	To call for returns, etc., from a committee.	
110	To appoint joint committees and to vary or rescind any written instrument by virtue of which any joint committee has been appointed.	
112	To delegate powers or duties conferred or imposed on a board.	

SCHEDULE I—*contd.*

## THE POWERS AND FUNCTIONS OF A BOARD.

1	2	3
Section.	Power or duty.	REMARKS.
115	To invest or place any portion of the municipal fund in deposit.	
117	To request the Local Government to acquire land.	
118	To undertake the management or control of property entrusted to it.	
119	To manage, control and administer, and hold in trust the funds of public institutions.	
124	To transfer any property vested in the board.	
125	To make compensation out of the municipal fund.	
128—137	To take any action relating to a tax.	
141	To cause an assessment list to be prepared and to appoint a person to make the assessment list.	May be delegated.
143 (3)	To hear and decide objections, or to delegate the power to hear and decide objections.	May be delegated.
147 (1)	To amend an assessment list.	May be delegated.
156	To permit compounding or taxes.	
157 (1) & (2)	To exempt from taxation.	
187	To establish and maintain a fire brigade.	
189	To construct drains.	
190	To alter and discontinue municipal drains.	
196 (a) & (b)	By public notice to undertake the house-scavenging or cleansing of latrines or privies, and to relinquish such undertaking.	
197 (2)	To pass orders on an application for the exclusion of a house from a notice under section 196 (a).	May be delegated.



SCHEDULE I—*contd.*

## THE POWERS AND FUNCTIONS OF A BOARD.

1	2	3
Section.	Power or duty.	REMARKS.
211	To issue a notice for the removal or alteration of a projection, when compensation is payable.	
217 (I) (a)	To give a name to a street.	
219	To make, alter, divert or close a public street, to provide building sites thereon, to take steps to acquire land for such purposes, and to sell or dispose of land so acquired.	
221	To declare a street a public street.	
222 (I) to (3).	To define "the regular line of the street."	
224	To construct and alter water-works.	
237 (I)	To fix premises for the slaughter of animals for sale.	
238	To fix premises for the slaughter of animals not intended for sale or slaughtered for religious purpose, and to prohibit such slaughter elsewhere.	
250 (I)	To require the muzzling of dogs.	
253 (pro-viso)	To direct that the section shall not apply to vehicles proceeding at not more than a walking pace.	
257 (I)	To direct that roofs and external walls shall not be made of inflammable materials without the board's consent.	
259	To prohibit the stacking or collecting of inflammable materials, etc.	
269	To require the removal of a nuisance from tanks and the like, when such removal involves the board acquiring or providing land.	
273 (I) (b) & (c)	To appoint places for disposal of offensive matter and rubbish and to issue directions as to the time,	

SCHEDULE I—*concl'd.*

## THE POWERS AND FUNCTIONS OF A BOARD.

1	2	3
Section.	Powers or duty.	REMARKS.
	manner and conditions of removal thereof.	
275 (3)	To prescribe fees for the disposal of dead bodies of animals.	
282	To prohibit any cultivation, use of manure or irrigation injurious to health.	
285	To provide or close, or give permission for the making of burning and burial grounds, to except private burial places from a public notice, and to give permission to use an unrecognised burial or burning ground.	
216	To set apart bathing and washing places, to prescribe conditions for the use of such places and to prohibit bathing and washing at other places.	
290 (2)	To sanction execution of water-works or a work under sections 192, 267 and 268 at the charge of the municipal fund.	
290 (3)	To transfer the board's interest in appliances appertaining to a water or drainage work to the owner of a building or land.	
297	To make regulations.	
298	To make byelaws.	
299	To direct that the breach of byelaws shall be punishable with fine.	
General	Any power, duty or function which any rule requires to be exercised, performed or discharged by the board itself by means of a resolution.	
79 (I)	To pay leave allowances to officer or servant.	

## SCHEDULE II.

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

*Sections 60 (1) (d) and 61 (1) (a).*

1	2	3
Section.	Nature of powers or duties.	REMARKS.
142	To give public notice of the place where an assessment list may be inspected.	
143 (1)	To give public notice of the time fixed for considering valuations and assessments and to give notice to owners or occupiers of property.	
143 (2)	To receive objections to valuations and assessments.	
147 (2)	To give notice to persons interested in an alteration proposed in an assessment list of the date on which the alteration will be made.	
148 (1)	To receive notice of a building newly built, rebuilt or enlarged.	
150 (2)	To exercise the option of levying the tax from the lessor.	
151 (1) & (2)	To remit or refund a tax in case of a building, tenement or land remaining vacant and unproductive of rent.	
152 (1)	To receive notice of the reoccupation of a building or land.	
158	To call for information affecting liability to taxation.	
166	To present bills for taxes and other dues.	
168	To cause a notice of a demand to be served.	
169	To issue a distress warrant.	
172 (1) & (2)	To sell goods distrained.	
172 (3)	To receive applications for a refund and to make a refund.	
173	To apply to a Magistrate for the issue of a warrant.	
176	To sue for a demand.	

SCHEDULE II—*contd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1	2	3
Section.	Nature of powers or duties.	REMARKS.
178 (I)	To receive a notice of the intention to erect, re-erect or make a material alteration in a building, etc.	Appeal lies against order directing alteration or demolition of building, part of a building or a well.
179 (I)	To determine when information regarding such notice is satisfactory.	
179 (2)	To require plans, specifications and further information.	
186	To direct by a notice that the erection, re-erection or alteration of a building, etc., shall be stopped or that a building, etc., be altered or demolished.	
191 (I)	To give permission and to prescribe conditions for the connection of private drains with municipal drains.	Appealable.
191 (2)	To require that a drain made in contravention of a byelaw or of the terms of permission or without permission shall be closed, etc.	
192 (I)	To enforce a drainage connection with a public drain.	Appealable.
193	To receive applications, to call for objections, to issue orders thereon, to construct drains and recover cost of construction and compensation.	Appeal lies against an order recorded under sub-section 3.
194	To give permission for diversion of drain and to prescribe conditions for such diversion.	Appealable.
196 (c) & (d)	With the consent of an occupier, to undertake house-scavenging or the removal of night-soil or other offensive matter or rubbish and to relinquish such undertaking.	
201 (I)	To complain to a Magistrate of the negligence of a customary sweeper.	

SCHEDULE II—*contd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1	2	3
Section.	Nature of powers or duties.	REMARKS.
202 (I)	To complain to a Magistrate of the failure of an agriculturist to provide for proper house-scavenging.	
203 (I)	To receive notice of intention to make a street.	
204	To postpone the intended work or require further particulars.	
209	To give permission for projections.	Appeal lies from orders refusing permission.
211	To issue a notice for the removal of	Appealable.
<sup>1</sup> [(in part)]	a projection in a case where no compensation is payable.	
213	To give permission for erection and repair of buildings, etc., and to issue orders regarding hoardings, etc.	
214	To require hedges and trees to be trimmed.	
215	To remove, and recover the expense of removal of, or to issue a notice requiring the removal of, an obstruction caused by fallen house, etc.	
216	To require the provision of troughs and pipes for rain water.	
217 (I) (b) and (c)	To affix the name of a street or a house number to a building or to require the owner or occupier to affix a number plate, and to cause or require such names and numbers to be altered.	
218	To attach posts and brackets to buildings for lamps, telegraph and telephone wires, etc.	
220	To give permission for the use or occupation of a public street or place.	

<sup>1</sup> These words and brackets were inserted by s. 16 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *see infra*, Vol. III.

SCHEDULE II—*contd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1	2	3
Section.	Nature of powers or duties.	REMARKS.
223	To provide fencing and lighting during repairs of public street, etc.	
225 (1)	To require private wells, etc., to be cleansed.	
225 (2)	To require a person to desist from using a private well, etc., or to close or fence the same	Appealable.
227	To require the removal or closing of drains, latrines, etc., near a source of water supply.	Appealable.
229	To supply water by agreement.	
230	To charge for the supply of water.	
236	To remove or otherwise deal with unauthorized buildings over drains, etc., or to issue notice for the removal of such buildings, etc.	Appealable.
240	To authorize an officer to seize flesh brought within the municipal limits in contravention of a bye-law and to issue orders as to the disposal of such flesh.	
244 (1) & (2)	To seize articles exposed for sale which appear to be unfit for the consumption of man and drugs suspected of being adulterated or spent; and to produce such drugs before a Magistrate.	
245 (1)	To issue a notice regarding offensive trades.	Appealable.
249	To authorize a person to destroy or confine dogs suspected to be suffering from rabies, etc.	
250 (2)	To authorize persons to destroy or confine unmuzzled dogs.	
256	To give permission for the use of public land for halting animals or vehicles.	

SCHEDULE II—*contd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1	2	3
Section.	Nature of powers or duties	REMARKS.
257 (2)	To require the removal of a roof and wall, if inflammable.	Appealable.
258	To search for inflammable material and to seize any quantity in excess of the quantity permitted.	
260	To issue notices regarding dangerous quarrying and to put up hoardings and fences to prevent imminent danger.	
241	To give permission for the displacing of pavements, etc., and to recover expenses incurred by the board by reason of such displacement, etc.	
263	To require by notice buildings, etc., in a dangerous or ruinous state to be demolished or repaired, or wells, tanks, etc., to be repaired and enclosed, and to take immediate action where the danger is imminent.	Appeal lies against an order to repair or enclose a tank.
264	To require unoccupied building or land which occasions a public nuisance to be secured or enclosed.	Appealable.
265	To give written permission for the temporary obstruction of a street and to remove any obstruction from a street and to recover the cost of removal.	
266	To give permission for the removal of earth, etc., from open spaces.	
267	To require provision, alteration, removal, closing, cleansing and screening of private drains, cess-pools, dustbins, latrines, etc.	Appeal lies against an order under clause (a) of sub-section (I) requiring an owner or occupier to close or remove, or under clause (b) of sub-section (I) to provide a latrine, urinal,

SCHEDULE II—*contd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1 Section.	2 Nature of powers or duties.	3 Remarks.
		water-closet, drain, cess-pool, dustbin or other receptacle, for filth, sullage-water, rubbish or refuse.
268	To require the provision and cleansing of latrines and urinals for factories, etc.	
269 <sup>1</sup> [(in part)]	To require the cleansing, repairing, covering, filling up or draining off of wells, tanks, etc.	Appealable.
270	To inspect drains, privies, etc., and to cause the ground to be opened.	
271	To require the cleansing of filthy buildings or lands.	
273 (I) (a)	To provide receptacles and places for the temporary deposit of offensive matter.	
275 (I)	To arrange for the disposal of dead bodies of animals.	
275 (3) <sup>1</sup> [(in part)]	To charge and recover fees for such disposal.	
276	To give permission for, and to prescribe conditions regarding, the discharging of sewage, etc.	
277	To enter and inspect a building and to direct that a building be disinfected, etc.	
278	To issue orders regarding buildings unfit for human habitation.	Appealable
280	To remove to a hospital a cholera or small-pox patient, etc.	
283	To require an owner or occupier to clear away noxious vegetation.	
284 (I)	To require that excavations, etc., made in contravention of byelaws	

<sup>1</sup> These words and brackets were inserted by s. 16 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *see infra*, Vol. III.



SCHEDULE II—*concl'd.*

## SCHEDULED POWERS OF EXECUTIVE OFFICER.

1	2	3
Section.	Nature of powers or duties	REMARKS.
	or the conditions of a permission, shall be filled up or shall be drained.	
291	To apply to the Collector to recover rent of land.	
293	To charge fees for the use or occupation of immovable property vested in, or entrusted to the management of, the board, and to levy or recover such charge.	
294	To charge fees for licences, sanctions, and permissions.	
307	To cause a work to be executed and to recover the expenses thereof.	
308	To require an occupier to pay rent to a board instead of to the defaulting owner, and to require an occupier to furnish information regarding the rent payable by him, etc.	
309	To approve the execution of a work by an occupier.	
312	To recover the cost of removal by sale of materials removed, to restore the materials to the owner under certain conditions, or to sell them when not claimed by the owner.	
313 (2)	To give notice to a trustee or an agent to apply moneys received on behalf of an owner to the discharge of obligations of the owner.	
314	To institute prosecutions by making complaints and giving information, and to authorize other persons to make such complaints and give such information.	
317	To receive information from a police officer.	

## SCHEDULE III.

## NOTICE OF PROPOSAL TO IMPOSE TAX.

[Sub-section (3) of section 131.]

Notice is hereby given to the inhabitants of the Municipality of  
that the Municipal Board desires to impose the tax, rate,  
toll, octroi or cess (as the case may be) described in the proposals  
appended [in lieu of the tax known as the ].\*

Any inhabitant of the municipality objecting to the proposals or  
rules appended hereto may, within a fortnight from date of this notice,  
send his objections in writing to the Municipal Board.

\*To be inserted if the tax is to be substituted for any existing tax.

## PROPOSALS.

[The proposals framed by the Board under sub-section (1) of  
section 131 are to be appended here.]

## RULES.

[The rules prepared by the Board under sub-section (2) of section 131  
are to be appended here.]

## SCHEDULE IV.

## FORM OF NOTICE OF DEMAND.

[Section 168.]

To

A. B.

residing at

Take notice that the Municipal Board of  
demands from

the sum of due from on  
account of (here describe the property, occu-  
pation, circumstance or thing in respect of which the sum is leviable)  
leviable under for the period  
of commencing on the day of

19 , and ending on the day of  
19 , and that if, within fifteen days from the service of this notice,  
the said sum is not paid into the municipal office at , or

sufficient cause for non-payment is not shown to the satisfaction of the board, a warrant of distress will be issued for the recovery of the same with costs.

Dated this                      day of                      19 .

(Signed)

of the Municipality of

### SCHEDULE V.

#### FORM OF WARRANT.

[*Sub-section (1) of section 169.*]

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of                      has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the liability\* mentioned in the margin for the period commencing on the                      day of                      19 , and ending with the                      day of                      19 , and leviable under                      ;

\* (Here describe the liability.)

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain, subject to the provisions of section 171 of the United Provinces Municipalities Act, 1916, the goods and chattels of the said A. B. to the amount of                      , being the amount due from him, as follows:—

R. A. P.

On account of the said liability . . . . .

For service of notice . . . . .

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this                      day of                      19 .

(Signed)

*Chairman or other officer.*

[See section 169 (2).]

NOTE.—It shall not be necessary to execute the warrant if the defaulter makes full payment to you before removal of his goods.

## SCHEDULE VI.

## FORM OF INVENTORY OF GOODS DISTRAINED AND NOTICE OF SALE.

[Sub-section (4) of section 171.]

To

A. B., residing at

\* (Here describe the liability.)

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of                      due for the liability\* mentioned in the margin for the period commencing with the                      day of                      19                      , and ending with the                      day of                      19                      ; together with Rs.                      due for service of notice of demand and that unless within five days from the date of the service of this notice you pay into the municipal office at                      the said amount together with the costs of recovery, the said goods and chattels will be sold.

Dated this                      day of                      19                      .

(Signature of officer executing the warrant.)

Inventory.

(Here state particulars of goods and chattels seized.)

## SCHEDULE VII.

## POWERS OF THE LOCAL GOVERNMENT THAT MAY NOT BE DELEGATED.

(Section 327.)

Section.	Powers or duties.
3 (I) (a)	To declare any local area to be a municipality.
3 (I) (b)	To declare any municipality having a population of less than 100,000 inhabitants to be a city.
3 (I) (c)	To define the limits of any municipality.
3 (I) (d)	To include or exclude any area in or from any municipality.
3 (I) (e)	To cancel any notification under any of the preceding clauses.
8 (3)	To declare, or in the case of a city sanction being declared, expenditure on anything to be an appropriate charge on the municipal fund.
9 (I)	To prescribe by notification the number of members of a board who may be elected.

SCHEDULE VII—*contd.*

## POWERS OF THE LOCAL GOVERNMENT THAT MAY NOT BE DELEGATED.

Section.	Powers or duties.
10	To declare that section 9 shall not apply to a municipality and in such case to prescribe the number of members to be nominated and the number to be elected.
12 (5)	To determine the percentage borne by the Muslim population to the total population of all municipalities.
16 (3)	To remove a disqualification under (a) and (b) of the sub-section
30	To supersede a board for a specified period.
31	To appoint a person or persons to exercise and perform the powers and duties of a board during the period of supersession.
34 (2)	To rescind or modify an order passed under this section by the Commissioner or the District Magistrate with respect to a city.
35	In the case of a city to fix a period for the performance of a duty
<sup>1</sup> [(in part)]	and if the duty is not performed within the period so fixed, to appoint the District Magistrate to perform it and to direct that the expense of performing it shall be paid by the board.
38 (4)	To specify the date on which members of a board shall cease to hold office.
40 (1)	To remove a member of a board of a city.
40 (2)	To receive appeals against orders under clause (d), (e) or (f) of sub-section (1) and to cancel any such order and to reinstate member affected.
40 (3)	To remove a member who has so flagrantly abused his position as member as to render his continuance detrimental to the public interest.
41 (4)	To declare a member removed by the Local Government to be no longer ineligible for further election or nomination.
43 (3)	To declare that sub-sections (1) and (2) of the section shall not apply to a municipality.
44	To nominate a chairman for a city where a board fails to elect one.
45	To sanction the election of a chairman of a city for more than two terms of office in succession.
48	To remove a chairman.
57	To approve the appointment, salary and conditions of appointment, of an executive officer.
58 (3)	To entertain an appeal by executive officer against order of
and (4)	punishment or dismissal, to allow, disallow or vary such punishment or dismissal and to suspend executive officer pending the decision of the appeal.

<sup>1</sup> These words and brackets were inserted by s. 17 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

SCHEDULE VII—*contd.*

## POWERS OF THE LOCAL GOVERNMENT THAT MAY NOT BE DELEGATED.

Section.	Powers or duties.
65 (1)	To require a board of a city to appoint an executive officer or a person to act as executive officer.
65 (3)	In default of appointment by board, to appoint a person to be an executive officer or to act as executive officer and to fix the salary, contribution to provident fund or pension, and conditions of service of person so appointed.
79 (1)	To sanction grant of compassionate allowance or grant or purchase of annuity by board.
99 (2)	To direct submission of budgets to specified officers.
102	To direct that budgets of specified boards shall be subject to sanction.
110	To require the appointment of joint committees.
115 (2)	To determine the amount of security of a banker.
116	To make reservation regarding property ordinarily vesting in board.
117	To acquire land for a board under the Land Acquisition Act.
122 (1)	To declare by notification what portion of the property and liabilities of a municipal board shall be transferred to another local authority, when a portion of the municipal area is placed under the control of such local authority.
122 (2)	To declare what portion of the property and liabilities of a municipal board shall be transferred to the Secretary of State when a local area is excluded from the municipality and is not immediately placed under the control of another local authority.
122 (4)	To decide in any case falling under sub-section (1) or (2) that it is undesirable to transfer any portion of municipal funds or liabilities.
124 (2)	To sanction the transfer to His Majesty of any property vested in a board.
126	To provide police protection at fairs, etc., and to determine the portion of the charges payable by a board.
133 (2)	To sanction, refuse to sanction or return for further consideration proposals for taxation under section 128, sub-section (1), clauses (i) to (xii), submitted by a city, or proposals for taxation received from any board under section 128, sub-section (1), clause (xii).
135 (2)	To notify the imposition of a tax sanctioned by the Local Government.
137 (1)	To require a board to remove a defect in or relating to a tax.

SCHEDULE VII—*concl'd.*

## POWERS OF THE LOCAL GOVERNMENT THAT MAY NOT BE DELEGATED.

Section.	Powers or duties.
137 (2)	To suspend, abolish or reduce a tax.
157 (3)	To exempt from taxation.
160 (1)	To empower an officer to hear appeals against taxation.
279 and 280	To notify infectious diseases.
296	To make rules <sup>1</sup> except rules under clauses (a), (b) and (c) of
<sup>1</sup> [(in part)]	Section 153 applicable to Municipalities other than cities.
318	To appoint an officer to hear appeals from certain orders of a board.
327	To delegate powers.
337	To declare a local area to be a notified area.
338 (1) (c)	To fix the number of members of a notified area committee.
338 (2)	To prescribe whether the members of a notified area committee shall be appointed or elected, or partly appointed and partly elected.
339	To determine the application of funds of areas ceasing to be notified.

## SCHEDULE VIII.

## LIST OF OFFENCES.

(Section 314.)

Section.	Description of offences.	Fines that may be imposed.
148 (2)	Failure to report, for entry in property assessment list, a new or altered building.	Rupees 50 or ten times tax payable for three months.
152 (2)	Failure to report re-occupation of vacant building paying reduced tax.	Rupees 50 or ten times tax due since occupation.
155	Evasion of octroi . . . . .	Rupees 50 or ten times octroi evaded which ever is greater.
158 (2)	Failure to make correct return of liability to a tax.	Rupees 100.

<sup>1</sup> These words and brackets were inserted by s. 17 of the United Provinces Municipalities (Amendment) Act, 1919 (U. P. Act 2 of 1919), *infra*, Vol. III.

SCHEDULE VIII--*contd.*

## LIST OF OFFENCES.

Section.	Description of offences.	Fines that may be imposed
185	Illegal erection or alteration of a building.	Rupees 500.
191 (2)	Illegal construction or alteration of a drain connection.	Rupees 50
201 (2)	Negligence by customary sweeper.	Rupees 10.
207	Illegal making of a street . . . .	Rupees 500.
210	Construction of unauthorised projection over street or drain.	Rupees 250.
213 (3)	Failure to obtain permission for, and to safeguard dangerous tree cutting and building operation.	Rupees 50 and Rs. 5 for each day that offence is repeated after conviction.
317 (2)	Improper interference with street names and house numbers.	Rupees 25.
223 (2)	Interference with arrangements made during street repair, etc.	Rupees 50.
237 (4)	Slaughter on unlicensed premises of animals for sale.	Rupees 20 per animal.
242	Improper feeding of animals kept for dairy purposes or used for food.	Rupees 50.
245	Failure to obey a notice prohibiting or regulating the use of premises for an offensive trade.	Rupees 200 and Rs. 40 for each day that offence is repeated after conviction.
246	Loitering and soliciting for immoral purpose.	Rupees 50.
247 (2)	Disobedience to magistrate's order prohibiting use of house as brothel.	Rupees 25 per day.
248	Importunate begging . . . .	Rupees 20.
252	Neglect of the rule of the road .	Rupees 10.
253	Driving vehicles without proper lights.	Rupees 20.
254	Failure to remove elephant, etc., to safe distance.	Rupees 20.
255 (1)	Allowing cattle to stray or be tethered in street.	Rupees 20.
256	Unauthorized use of municipal land as halting place.	Rupees 20 and Rs. 5 for each day that offence is repeated after conviction.



SCHEDULE II—*contd.*

## LIST OF OFFENCES.

Section.	Description of offences.	Fines that may be imposed.
257 (3)	Unauthorized erection or continuance of inflammable constructions.	Rupees 25 and Rs. 10 for each day that offence is repeated after conviction.
261 (1)	Unauthorized interference with payments and other municipal property.	Rupees 100.
262	Dangerous discharge of fire arms or fire-works and indulgence in dangerous games.	Rupees 20.
265	Obstruction of streets . . . .	Rupees 50.
266	Unauthorized digging on public land.	Rupees 50 and Rs. 10 for each day that offence is repeated after conviction.
272	Failure of owner or occupier to remove offensive matter.	Rupees 50 and Rs. 5 for each day that offence is repeated after conviction.
274	Improper disposal by owner or occupier of rubbish, night-soil, etc.	Rupees 20.
275 (2)	Failure to dispose of dead animals.	Rupees 10.
276	Improper discharge of sewage in or on to a street or drain.	Rupees 20.
279	Failure to give information of cholera, small-pox, etc.	Rupees 50.
281	Doing certain acts while suffering from infectious disorder.	Rupees 20
285 (5)	Burial or burning of corpses in a place not recognized as a burial or burning ground.	Rupees 50.
295	Obstruction to municipal employees.	Rupees 50.
299	Contravention of rule or byelaw to the breach of which a penalty is attached.	Any sum not exceeding Rs. 500 prescribed, and Rs. 5 for each day that offence is repeated after conviction.

SCHEDULE I—*concl'd.*

## LIST OF OFFENCES

Section.	Description of offences.	Fines that may be imposed.
306	Disobedience to public notice or provision of the Act applicable to the public.	Rupees 500 and Rs. 5 for each day that offence is repeated after conviction.
307	Disobedience to notice issued to individual.	Rupees 500 and Rs. 5 for each day that offence is repeated after conviction.
310 (3)	Refusal by occupier to allow owner to take action required by notice.	Rupees 25 for each day of refusal.

## SCHEDULE IX.

## REPEALED ENACTMENTS.

[Section 334 (1).]

Year.	No.	Short title or subject.
		<i>Acts of the Lieutenant-Governor in Council.</i>
1900	I	The United Provinces Municipalities Act.
1901	V	The United Provinces Municipalities Amendment Act.
1907	I	The United Provinces Municipalities Amendment Act.
1891	I	The United Provinces Water Works Act.
1895	II	The United Provinces Water Works Amendment Act.
1901	I	The United Provinces Water Works Amendment Act.
1908	I	The United Provinces Water Works Amendment Act.
1892	I	The United Provinces Lodging House Act.
1894	III	The United Provinces Sewerage and Drainage Act.